

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

For the Fiscal Year Ended December 31, 2003

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Commission File Number: 1-11718

MANUFACTURED HOME COMMUNITIES, INC.  
(Exact name of registrant as specified in its charter)

MARYLAND  
(State or other jurisdiction of incorporation or organization)  
TWO NORTH RIVERSIDE PLAZA, SUITE 800, CHICAGO, ILLINOIS  
(Address of principal executive offices)

36-3857664  
(I.R.S. Employer Identification No.)  
60606  
(Zip Code)

(312) 279-1400  
(Registrant's telephone number, including area code)

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

Common Stock, \$.01 Par Value (Title of Class)	The New York Stock Exchange (Name of exchange on which registered)
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Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

The aggregate market value of voting stock held by nonaffiliates was approximately \$665.2 million as of February 27, 2004 based upon the closing price of \$33.31 on such date using beneficial ownership of stock rules adopted pursuant to Section 13 of the Securities Exchange Act of 1934 to exclude voting stock owned by Directors and Officers, some of whom may not be held to be affiliates upon judicial determination.

At March 5, 2004, 22,869,603 shares of the Registrant's Common Stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE:

Part III incorporates by reference the Registrant's Proxy Statement relating to the Annual Meeting of Stockholders to be held on May 4, 2004.

MANUFACTURED HOME COMMUNITIES, INC.

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PART I

ITEM 1. BUSINESS

THE COMPANY

GENERAL

Manufactured Home Communities, Inc., together with MHC Operating Limited Partnership (the "Operating Partnership") and other consolidated subsidiaries ("Subsidiaries"), are referred to herein as the "Company", "MHC", "we", "us", and "our". The Company is a fully integrated company that owns and operates manufactured home communities ("Communities") and park model communities ("Resorts") (collectively known as "Properties"). The Company was formed to continue the property operations, business objectives and acquisition strategies of an entity that had owned and operated Communities since 1969. As of December 31, 2003, we owned or had an ownership interest in a portfolio of 142 Communities and Resorts located throughout the United States containing 51,715 residential sites. These Properties are located in 19 states (with the number of Properties in each state shown parenthetically) - Florida (52), California (25), Arizona (21), Colorado (10), Delaware (7), Nevada (5), Oregon (4), Indiana (3), Illinois (2), Iowa (2), New York (1), Texas (2), Utah (2), Pennsylvania (1), Montana (1), New Mexico (1), Michigan (1), Virginia (1), and Washington (1).

Communities are residential developments designed and improved for the placement of detached, single-family manufactured homes that are produced off-site and installed and set on residential sites ("Site Set") within the Community. The owner of each home leases the site on which it is located. Modern Communities are similar to typical residential subdivisions, containing centralized entrances, paved streets, curbs and gutters and parkways. In addition, these Communities often provide a clubhouse for social activities and recreation and other amenities, which may include swimming pools, shuffleboard courts, tennis courts, laundry facilities and cable television service. In some

cases, utilities are provided or arranged for by the owner of the Community; otherwise, the resident contracts for the utility directly. Some Communities provide water and sewer service through municipal or regulated utilities, while others provide these services to residents from on-site facilities. Each Community is generally designed to attract, and is marketed to, one of two types of residents - 1) retirees and empty-nesters or 2) families and first-time homeowners. We believe both types of Communities are attractive investments and focus on owning Communities in or near large metropolitan markets and retirement destinations.

Resorts are similar to Communities in their overall design and the amenities they provide. Our Resorts typically include sites designed to accommodate Site Set homes, park model homes, luxury motor-coaches and a variety of recreational vehicles. A park model, sometimes referred to as a vacation cottage, is a factory built detached single-family structure generally with approximately 400 square feet. Owners often add sunrooms, porches and/or decks after the home is placed on site. Our Resorts are marketed to attract residents seeking a second home or vacation home as well as those seeking a long-term or full season recreational vehicle site. A majority of our Resort residents own homes in the Resort and/or lease the site annually or for a full season.

We have approximately 1,000 full-time employees dedicated to carrying out our operating philosophy and strategies of value enhancement and service to residents. The operations of each Property are coordinated by an on-site team of employees that typically includes a manager or two-person management team, clerical and maintenance workers, each of whom work to provide maintenance and care of the Properties. Direct supervision of on-site management is the responsibility of our regional vice presidents and regional and district managers. These individuals have significant experience in addressing the needs of residents and in finding or creating innovative approaches to maximize value and increase cash flow from property operations. Complementing this field management staff are approximately 60 corporate employees who assist on-site management in all property functions.

#### FORMATION OF THE COMPANY

We believe that we have qualified for taxation as a real estate investment trust ("REIT") for federal income tax purposes since our taxable year ended December 31, 1993. We plan to continue to meet the requirements for taxation as a REIT. Many of these requirements, however, are highly technical and complex. We cannot, therefore, guarantee that we have qualified or will qualify in the future as a REIT. The determination that we are a REIT requires an analysis of various factual matters that may not be totally within our control and we cannot provide any assurance that the Internal Revenue Service ("IRS") will agree with our analysis. For example, to qualify as a REIT, at least 95% of our gross income must come from sources that are itemized in the REIT tax laws. We are also required to distribute to stockholders at least 90% of our REIT taxable income excluding capital gains. The fact that we hold our assets through MHC Operating Limited Partnership and its subsidiaries further complicates the application of the REIT requirements. Even a technical or inadvertent mistake could jeopardize our REIT status. Furthermore, Congress and the IRS might make changes to the tax laws and regulations, and the

courts might issue new rulings that make it more difficult, or impossible, for us to remain qualified as a REIT. We do not believe, however, that any pending or proposed tax law changes would jeopardize our REIT status.

If we fail to qualify as a REIT, we would be subject to federal income tax at regular corporate rates. Also, unless the IRS granted us relief under certain statutory provisions, we would remain disqualified as a REIT for four years following the year we first failed to qualify. Even if the Company qualifies for taxation as a REIT, the Company is subject to certain state and local taxes on its income and property and Federal income and excise taxes on its undistributed income.

The operations of the Company are conducted primarily through the Operating Partnership. The Company contributed the proceeds from its initial public offering and subsequent offerings to the Operating Partnership for a general partnership interest. The financial results of the Operating Partnership and the Subsidiaries are consolidated in the Company's consolidated financial statements. In addition, since certain activities, if performed by the Company, may not be qualifying REIT activities under the Internal Revenue Code of 1986, as amended (the "Code"), the Company has formed taxable REIT subsidiaries as defined in the Code to engage in such activities. Realty Systems, Inc. ("RSI") is a wholly owned subsidiary of the Company that, doing business as Carefree Sales, is engaged in the business of purchasing, selling and leasing manufactured homes that are located or will be located in Properties owned and managed by the Company. Carefree Sales also provides brokerage services to residents at such Properties. Typically, residents move from a Community but do not relocate their homes. Carefree Sales may provide brokerage services, in competition with other local brokers, by seeking buyers for the homes. Carefree Sales also leases inventory homes to prospective residents with the expectation that the tenant eventually will purchase the home. Subsidiaries of RSI lease from the Operating Partnership certain real property within or adjacent to certain Properties consisting of golf courses, pro shops, stores and restaurants.

#### BUSINESS OBJECTIVES AND OPERATING STRATEGIES

Our strategy seeks to maximize both current income and long-term growth in income. We focus on Properties that have strong cash flow and we expect to hold such Properties for long-term investment and capital appreciation. In determining cash flow potential, we evaluate our ability to attract and retain high quality residents in our Properties who take pride in their Property and in their home. These business objectives and their implementation are determined by our Board of Directors and may be changed at any time. Our investment and operating approach includes:

- o Providing consistently high levels of services and amenities in attractive surroundings to foster a strong sense of community and pride of home ownership;
- o Efficiently managing the Properties to increase operating margins by controlling expenses, increasing occupancy and maintaining competitive market rents;
- o Increasing income and property values by continuing the strategic expansion and, where appropriate, renovation of the Properties;
- o Utilizing management information systems to evaluate potential acquisitions, identify and track competing properties and monitor resident satisfaction; and
- o Selectively acquiring Properties that have potential for long-term cash flow growth and to create property concentrations in and around major metropolitan areas and retirement destinations to capitalize on operating synergies and incremental efficiencies.

We are committed to enhancing our reputation as the most respected brand name in the industry. Our strategy is to own and operate the highest quality Properties in sought-after locations near both urban areas and retirement destinations across the United States. The focus is on creating an attractive residential environment for homeowners by providing a well-maintained, comfortable Property with a variety of organized recreational and social activities and superior amenities. In addition, we regularly conduct evaluations of the cost of housing in the marketplaces in which our Properties are located and survey rental rates of competing Communities and Resorts. From time to time we also conduct satisfaction surveys of our residents to determine the factors they consider most important in choosing a Property.

## FUTURE ACQUISITIONS

Over the last eight years our portfolio of Properties has grown by 73 Properties. We continually review the Properties in our portfolio to ensure that they fit our business objectives. Over the last four years, through the acquisition or sale of 50 Properties, we have redeployed capital to markets we believe have greater long-term potential. We believe that opportunities for Property acquisitions are still available and in general consolidation within the industry will continue (see - The Industry - Industry Consolidation). Increasing acceptability of and demand for Site Set homes and vacation cottages and continued constraints on development of new Properties continue to add to their attractiveness as an investment. We believe we have a competitive advantage in the acquisition of additional Properties due to our experienced management, significant presence in major real estate markets and substantial capital resources. We are actively seeking to acquire additional Communities and Resorts and are engaged in various stages of negotiations relating to the possible acquisition of a number of Properties.

We anticipate that newly acquired Properties will be located in the United States. We utilize market information systems to identify and evaluate acquisition opportunities, including a market database to review the primary economic indicators of the various locations in which we expect to expand our operations. Acquisitions will be financed from the most appropriate sources of capital, which may include undistributed funds from operations, issuance of additional equity securities, sales of investments, collateralized and uncollateralized borrowings and issuance of debt securities. In addition, the Operating Partnership may issue units of limited partnership interest ("OP Units") to finance acquisitions. We believe that an ownership structure which includes the Operating Partnership will permit us to acquire additional Communities and Resorts in transactions that may defer all or a portion of the sellers' tax consequences.

When evaluating potential acquisitions, we will consider such factors as:

- o the replacement cost of the Property,
- o the geographic area and type of Property,
- o the location, construction quality, condition and design of the Property,
- o the current and projected cash flow of the Property and the ability to increase cash flow,
- o the potential for capital appreciation of the Property,
- o the terms of tenant leases, including the potential for rent increases,
- o the potential for economic growth and the tax and regulatory environment of the community in which the Property is located,
- o the potential for expansion of the physical layout of the Property and the number of sites,
- o the occupancy and demand by residents for Properties of a similar type in the vicinity and the residents' profile,
- o the prospects for liquidity through sale, financing or refinancing of the Property, and
- o the competition from existing Properties and the potential for the construction of new Properties in the area.

We expect to purchase Properties with physical and market characteristics similar to the Properties in our current portfolio. When investing capital we consider all potential uses of the capital including returning capital to our stockholders. As a result, during 1999 and 2000 we implemented our stock repurchase program, and our Board of Directors continues to review the conditions under which we will repurchase our stock. These conditions include, but are not limited to, market price, balance sheet flexibility, other opportunities and capital requirements.

## PROPERTY EXPANSIONS

Several of our Properties have available land for expanding the number of sites available to be leased to residents. Development of these sites ("Expansion Sites") is predicated by local market conditions and permitted by

zoning and other applicable laws. When justified, development of Expansion Sites allows us to leverage existing facilities and amenities to increase the income generated from the Properties. Where appropriate, facilities and amenities may be upgraded or added to certain Properties to make those Properties more attractive in their markets. Our acquisition philosophy has included the desire to own Properties with potential Expansion Site development, and we have been successful in acquiring a number of such Properties. Several examples of these Properties include the 1993 acquisition of The Heritage with potential development of approximately 288 Expansion Sites, the 1994 acquisition of Bulow Plantation with potential development of approximately 725 Expansion Sites, the 1997 acquisition of Golf Vista Estates with potential development of approximately 88 Expansion Sites, the 1999 acquisition of Coquina Crossing with potential development of approximately 393 Expansion Sites, and the 2001 acquisitions of Grand Island and The Lakes at Countrywood with combined potential development of 224 Expansion Sites.

Of our 142 Properties, ten may be expanded consistent with existing zoning regulations. In 2004, we expect to develop an additional 205 Expansion Sites within three of these Properties. As of December 31, 2003, we had approximately 713 Expansion Sites available for occupancy in 22 of the Properties. We filled 136 Expansion Sites in 2003 and expect to fill an additional 150 to 200 Expansion Sites in 2004.

#### LEASES

At our Communities, a typical lease entered into between the resident and the Company for the rental of a site is for a month-to-month or year-to-year term, renewable upon the consent of both parties or, in some instances, as provided by statute. These leases are cancelable, depending on applicable law, for non-payment of rent, violation of Community rules and regulations or other specified defaults. Non-cancelable long-term leases, with remaining terms ranging up to ten years, are in effect at certain sites within 25 of the Communities. Some of these leases are subject to rental rate increases based on the Consumer Price Index ("CPI"), in some instances taking into consideration certain floors and ceilings and allowing for pass-throughs of certain items such as real estate taxes, utility expenses and capital expenditures. Generally, market rate adjustments are made on an annual basis.

#### REGULATIONS AND INSURANCE

General. Our Properties are subject to various laws, ordinances and regulations, including regulations relating to recreational facilities such as swimming pools, clubhouses and other common areas. We believe that each Property has the necessary permits and approvals to operate.

Rent Control Legislation. At certain of our Communities, state and local rent control laws, principally in California, limit our ability to increase rents and to recover increases in operating expenses and the costs of capital improvements. Enactment of such laws has been considered from time to time in other jurisdictions. We presently expect to continue to maintain Communities, and may purchase additional Communities, in markets that are either subject to rent control or in which rent-limiting legislation exists or may be enacted. For example, Florida has enacted a law that generally provides that rental increases must be reasonable. Also, certain jurisdictions in California in which we own Communities limit rent increases to changes in the CPI or some percentage thereof. As part of our effort to realize the value of our Properties subject to restrictive regulation, we have initiated lawsuits against several municipalities imposing such regulation in an attempt to balance the interests of our shareholders with the interests of our residents

Insurance. We believe that the Properties are covered by adequate fire, flood, property, earthquake and business interruption insurance (where appropriate) provided by reputable companies and with commercially reasonable deductibles and limits. Due to the lack of available commercially reasonable coverage, we are self-insured for terrorist incidents, except at certain

Properties where terrorist insurance coverage is required by debt covenants. We believe our insurance coverage is adequate based on our assessment of the risks to be insured, the probability of loss and the relative cost of available coverage. We have obtained title insurance insuring title to the Properties in an aggregate amount which we believe to be adequate.

## INDUSTRY

### THE INDUSTRY

We believe that modern Properties similar to ours provide an opportunity for increased cash flows and appreciation in value. These may be achieved through increases in occupancy rates and rents, as well as expense controls, expansion of existing Properties and opportunistic acquisitions, for the following industry-specific reasons:

- o Barriers to Entry: We believe that the supply of new Properties will be constrained due to barriers to entry into the industry. The most significant barrier has been the difficulty in securing zoning from local authorities. This has been the result of (i) the public's historically poor perception of the industry, and (ii) the fact that Properties generate less tax revenue because the homes are treated as personal property (a benefit to the home owner) rather than real property. Another factor that creates substantial barriers to entry is the length of time between investment in a Property's development and the attainment of stabilized occupancy and the generation of revenues. The initial development of the infrastructure may take up to two or three years. Once the Property is ready for occupancy, it may be difficult to attract customers to an empty Property. Substantial occupancy levels may take several years to achieve.
- o Industry Consolidation: According to an industry analyst's industry report, there are approximately 50,000 Communities in the United States, and approximately 6.5% or 3,250 of the Communities have more than 200 sites and would be considered "investment-grade" properties. The four public REITs that own Communities own approximately 328 or about 10% of the "investment-grade" Communities. In addition, based on a report prepared by one analyst, the top 150 owners of Communities own approximately 69% of the "investment-grade" assets. We believe that this relatively high degree of fragmentation in the industry provides us, as a national organization with experienced management and substantial financial resources, the opportunity to purchase additional Communities.

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- o Stable Tenant Base: We believe that Properties tend to achieve and maintain a stable rate of occupancy due to the following factors: (i) residents own their own homes, (ii) Properties tend to foster a sense of community as a result of amenities such as clubhouses, recreational and social activities and (iii) since moving a Site Set home or vacation cottage from one Property to another involves substantial cost and effort, residents often sell their home in-place (similar to site-built residential housing) with no interruption of rental payments.

### SITE SET HOUSING AND VACATION COTTAGES

Based on the current growth in the number of individuals living in Site Set homes and vacation cottages, we believe that these homes are increasingly viewed by the public as an attractive and economical form of housing.

We believe that the growing popularity of these homes is primarily the result of the following factors:

- o Importance of Home Ownership. According to the Fannie Mae 2001

National Housing Survey ("FNMA Survey"), renters' desire to own a home continues to be a top priority.

- o Affordability. For a significant number of people, these homes represent the only means of achieving home ownership. In addition, the total cost of housing in a Property (home cost, site rent and related occupancy costs) is competitive with and often lower than the total cost of alternative housing, such as apartments and condominiums, and generally substantially lower than "stick-built" residential alternatives.
- o Lifestyle Choice. As the average age of the United States population has increased, this housing choice has become an increasingly popular housing alternative for retirement and "empty-nest" living. According to the FNMA Survey, the baby-boom generation - the 80 million people born between 1945 and 1964 - will constitute 18% of the U.S. population within the next 30 years and more than 32 million people will reach age 55 within the next ten years. Among those individuals who are nearing retirement (age 40 to 54), approximately 33% plan on moving upon retirement. We believe that this housing choice is especially attractive to such individuals when located within a Property that offers an appealing amenity package, close proximity to local services, social activities, low maintenance and a secure environment.
- o Construction Quality. Since 1976, all Site Set housing has been required to meet stringent Federal standards, resulting in significant increases in the quality of the industry's product. The Department of Housing and Urban Development's standards for Site Set housing construction quality are the only Federally regulated standards governing housing quality of any type in the United States. Site Set homes produced since 1976 have received a "red and silver" government seal certifying that they were built in compliance with the Federal code. The code regulates Site Set home design and construction, strength and durability, fire resistance and energy efficiency, and the installation and performance of heating, plumbing, air conditioning, thermal and electrical systems. In newer homes, top grade lumber and dry wall materials are common. Also, manufacturers are required to follow the same fire codes as builders of site-built structures. In addition, although vacation cottages do not come under the same regulation, many of the manufacturers of Site Set homes also produce vacation cottages with many of the same quality standards.
- o Comparability to Site-Built Homes. The Site Set housing industry has experienced a trend towards multi-section homes. Many modern Site Set homes are longer (up to 80 feet, compared to 50 feet in the 1960's) and wider than earlier models. Many such homes have vaulted ceilings, fireplaces and as many as four bedrooms, and closely resemble single family ranch style site-built homes.
- o Second home demographics. Over the past ten years there has been a significant increase in the second home market. According to a November 2002 study by the National Association of Realtors ("NAR"), sales of second homes have risen almost 36% in ten years. Six percent of all home sales each year are second homes. The NAR study found that 48% of people who own a second home own either a cabin, cottage or manufactured home. According to the US Census Bureau, there were 9.2 million homes held by owners in addition to their primary residence.

#### AVAILABLE INFORMATION

We file reports electronically with the Securities and Exchange Commission. The public may read and copy any materials we file with the SEC at the SEC's Public Reference Room at 450 Fifth Street, NW., Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an Internet site that contains



reports, proxy information and statements, and other information regarding issuers that file electronically with the SEC at <http://www.sec.gov>. We maintain an Internet site with information about the Company and hyperlinks to our filings with the SEC at <http://www.mhchomes.com>. Requests for copies of our filings with the SEC and other investor inquiries should be directed to:

Investor Relations Department  
 Manufactured Home Communities, Inc.  
 Two North Riverside Plaza  
 Chicago, Illinois 60606  
 Phone: 1-800-247-5279  
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ITEM 2. PROPERTIES

Our Properties provide attractive amenities and common facilities that create a comfortable and attractive home for our residents, with most offering a clubhouse, a swimming pool, laundry facilities and cable television service. Many also offer additional amenities such as sauna/whirlpool spas, golf courses, tennis, shuffleboard and basketball courts and exercise rooms. Since residents in our Properties own their homes, it is their responsibility to maintain their homes and the surrounding area. It is our role to ensure that residents comply with our Property policies and to provide maintenance of the common areas, facilities and amenities. We hold periodic meetings with our Property management personnel for training and implementation of our strategies. The Properties historically have had, and we believe they will continue to have, low turnover and high occupancy rates.

The distribution of our Properties throughout the United States reflects our belief that geographic diversification helps insulate the portfolio from regional economic influences. We intend to target new acquisitions in or near markets where our Properties are located and will also consider acquisitions of Properties outside such markets. The following table identifies our five largest markets and provides information regarding our Properties, including Communities owned in joint ventures.

MAJOR MARKET	NUMBER OF PROPERTIES	TOTAL SITES	PERCENT OF TOTAL SITES	PERCENT OF TOTAL PROPERTY OPERATING REVENUES
Florida	52	23,366	45.3%	40.8%
California	25	6,229	12.0%	20.1%
Arizona	21	5,930	11.5%	8.5%
Colorado	10	3,452	6.7%	8.2%
Delaware	7	2,238	4.3%	4.1%
Other	27	10,500	20.2%	18.3%
Total	142	51,715	100.0%	100.0%

Our largest Property, Bay Indies, located in Venice, Florida, accounted for approximately 3.0% of our total revenues for the year ended December 31, 2003.

The following table lists our Resort Properties and those Communities in which we have a non-controlling joint venture interest:

LOCATION	NUMBER OF SITES AS OF
----------	-----------------------

PROPERTY	CITY, STATE		12/31/03
RESORT PROPERTIES			
Mt Hood	Welches	OR	436
Fun & Sun	San Benito	TX	1,435
Southern Palms	Eustis	FL	950
Sherwood Forest	Kissimmee	FL	512
Bulow	Flagler Beach	FL	352
Tropic Winds	Harlingen	TX	531
Countryside	Apache Junction	AZ	560
Golden Sun	Apache Junction	AZ	329
Breezy Hill	Pompano Beach	FL	762
Highland Wood	Pompano Beach	FL	148
Date Palm	Cathedral City	CA	140
Toby's	Arcadia	FL	379
Araby Acres	Yuma	AZ	337
Foothill	Yuma	AZ	180
TOTAL RESORT PROPERTY SITES			7,051

COMMUNITIES OWNED IN JOINT VENTURES			
Trails West	Tucson	AZ	503
Plantation	Calimesa	CA	385
Manatee	Bradenton	FL	290
Home	Hallandale	FL	136
Villa del Sol	Sarasota	FL	207
Voyager	Tuscon	AZ	---
Preferred Interests in College Heights			---
TOTAL SITES OWNED IN JOINT VENTURES			1,521

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The following table sets forth certain information relating to the Communities we owned as of December 31, 2003, categorized by our major markets. We define our core Community portfolio ("Core Portfolio") as Communities owned throughout both periods of comparison. Excluded from the Core Portfolio are any Communities acquired or sold during the period, any Resort Properties and any Communities owned through joint ventures which, together, are referred to as the "Non-Core" Properties. The following table excludes Resort Properties and any Communities owned through Joint Ventures.

PROPERTY	LOCATION CITY, STATE	NUMBER OF SITES AS OF 12/31/03	OCCUPANCY AS OF 12/31/03	OCCUPANCY AS OF 12/31/02	MONTHLY BASE RENT AS OF 12/31/03	MONTHLY BASE RENT AS OF 12/31/02
FLORIDA						
EAST COAST:						
Bulow Plantation	Flagler Beach FL	276	97.8% (b)	97.5% (b)	\$329	\$322
Carriage Cove	Daytona Beach FL	418	94.3%	95.7%	\$393	\$387
Coquina Crossing	St Augustine FL	361	97.2% (b)	84.5% (b)	\$341	\$324
Coral Cay	Margate FL	819	89.4%	91.5%	\$455	\$435
Countryside	Vero Beach FL	646	98.0% (b)	96.6% (b)	\$341	\$324
Heritage Village	Vero Beach FL	436	94.3%	96.1%	\$368	\$354
Holiday Village	Vero Beach FL	128	68.8%	72.7%	\$313	\$307
Holiday Village	Ormond Beach FL (a)	301	88.0%	87.4%	\$339	\$313
Indian Oaks	Rockledge FL	208	99.5% (b)	98.1% (b)	\$274	\$260
Lakewood Village	Melbourne FL	349	92.8%	92.8%	\$394	\$387
Lighthouse Pointe	Port Orange FL	433	89.1% (b)	89.1% (b)	\$332	\$324
Maralago Cay	Lantana FL	602	92.7%	94.5%	\$441	\$437
Pickwick	Port Orange FL	432	99.8%	98.6%	\$348	\$335
The Meadows	Palm Beach Gardens FL	380	85.5% (b)	85.3% (b)	\$386	\$373
CENTRAL:						
Grand Island	Grand Island FL	307	68.7% (b)	71.7% (b)	\$312	\$291
Mid-Florida Lakes	Leesburg FL	1,226	84.4% (b)	88.6% (b)	\$379	\$339
Oak Bend	Ocala FL	262	87.4% (b)	88.2% (b)	\$306	\$292
Sherwood Forest	Kissimmee FL	754	96.0% (b)	96.9% (b)	\$355	\$345
Villas at Spanish Oaks	Ocala FL	459	87.1%	91.5%	\$334	\$317

GULF COAST (TAMPA/NAPLES):							
Bay Indies	Venice	FL	1,309	96.3%	98.2%	\$388	\$345
Bay Lake Estates	Nokomis	FL	228	94.7%	95.6%	\$427	\$416
Buccaneer	N. Ft. Myers	FL	971	98.1%	98.5%	\$368	\$348
Country Place	New Port Richey	FL	515	99.6%(b)	99.4%(b)	\$278	\$272
Down Yonder	Largo	FL	362	98.6%	99.2%	\$403	\$388
East Bay Oaks	Largo	FL	328	94.2%	96.0%	\$395	\$391
Eldorado Village	Largo	FL	227	91.6%	94.3%	\$402	\$391
Glen Ellen	Clearwater	FL(a)	106	85.8%	76.9%	\$328	\$322
Hacienda Village	New Port Richey	FL(a)	505	96.6%	95.0%	\$320	\$305
Harbor View	New Port Richey	FL(a)	471	98.9%	98.9%	\$223	\$220
Hillcrest	Clearwater	FL	279	79.6%	83.9%	\$358	\$346
Holiday Ranch	Largo	FL	150	88.7%	92.7%	\$370	\$353
Lake Fairways	N. Ft. Myers	FL	896	99.6%	99.2%	\$389	\$376
Lake Haven	Dunedin	FL	379	83.6%	89.7%	\$414	\$399
Lakes at Countrywood	Plant City	FL	423	93.4%(b)	94.8%(b)	\$263	\$256
Meadows at Countrywood	Plant City	FL	737	98.4%	99.1%	\$305	\$293
Oaks at Countrywood	Plant City	FL	168	72.0%(b)	70.8%(b)	\$275	\$266
Pine Lakes	N. Ft. Myers	FL	584	100.0%	99.3%	\$465	\$458
Silk Oak	Clearwater	FL(a)	180	87.2%	93.3%	\$367	\$358
The Heritage	N. Ft. Myers	FL	455	91.2%(b)	87.3%(b)	\$334	\$319
Windmill Manor	Bradenton	FL	292	93.8%	94.9%	\$382	\$370
Windmill Village	N. Ft. Myers	FL	491	95.5%	96.3%	\$329	\$323
Winds of St. Armands No	Sarasota	FL	471	95.8%	98.1%	\$373	\$346
Winds of St. Armands So	Sarasota	FL	306	99.7%	99.7%	\$386	\$364
TOTAL FLORIDA MARKET			19,630	93.2%	93.9%	\$362	\$346
FLORIDA MARKET - CORE PORTFOLIO			18,067	93.1%	94.0%	\$368	\$352

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PROPERTY	LOCATION CITY, STATE	NUMBER OF SITES AS OF 12/31/03	OCCUPANCY AS OF 12/31/03	OCCUPANCY AS OF 12/31/02	MONTHLY BASE RENT AS OF 12/31/03	MONTHLY BASE RENT AS OF 12/31/02	
CALIFORNIA							
NORTHERN CALIFORNIA:							
California Hawaiian	San Jose	CA	418	98.1%	97.6%	\$698	\$675
Colony Park	Ceres	CA	186	93.0%	89.8%	\$386	\$375
Concord Cascade	Pacheco	CA	283	99.3%	98.9%	\$566	\$560
Contempo Marin	San Rafael	CA	396	98.7%	98.7%	\$651	\$646
Coralwood	Modesto	CA	194	99.0%	99.0%	\$457	\$438
Four Seasons	Fresno	CA	242	76.9%	75.6%	\$277	\$267
Laguna Lake	San Luis Obispo	CA	290	99.7%	99.7%	\$378	\$368
Monte del Lago	Castroville	CA	310	97.7%(b)	97.7%(b)	\$584	\$560
Quail Meadows	Riverbank	CA	146	100.0%	100.0%	\$414	\$390
Royal Oaks	Visalia	CA	149	81.9%	81.9%	\$299	\$290
DeAnza Santa Cruz	Santa Cruz	CA	198	98.5%	99.0%	\$572	\$558
Sea Oaks	Los Osos	CA	125	96.8%	97.6%	\$423	\$418
Sunshadow	San Jose	CA	121	100.0%	100.0%	\$662	\$651
Westwinds (4 Properties)	San Jose	CA	723	98.5%	99.2%	\$752	\$719
SOUTHERN CALIFORNIA:							
Date Palm Country Club	Cathedral City	CA	538	94.2%	94.1%	\$720	\$679
Lamplighter	Spring Valley	CA	270	98.5%	99.3%	\$713	\$642
Meadowbrook	Santee	CA	338	97.6%	100.0%	\$636	\$627
Rancho Mesa	El Cajon	CA	158	99.4%	99.4%	\$619	\$567
Rancho Valley	El Cajon	CA	140	100.0%	100.0%	\$708	\$627
Royal Holiday	Hemet	CA	179	64.2%	67.0%	\$306	\$285
Santiago Estates	Sylmar	CA	300	98.7%	96.3%	\$678	\$646
TOTAL CALIFORNIA MARKET			5,704	95.6%	95.8%	\$598	\$574
CALIFORNIA MARKET - CORE PORTFOLIO			5,704	95.6%	95.6%	\$598	\$574
ARIZONA							
Apollo Village	Phoenix	AZ	236	80.9%(b)	83.9%(b)	\$416	\$401
The Highlands at Brentwood	Mesa	AZ	273	85.3%	89.0%	\$498	\$475
Carefree Manor	Phoenix	AZ	128	76.6%	92.2%	\$355	\$342
Casa del Sol #1	Peoria	AZ	245	77.6%	81.2%	\$479	\$460
Casa del Sol #2	Glendale	AZ	239	77.4%	86.6%	\$502	\$472
Casa del Sol #3	Glendale	AZ	236	85.6%	89.8%	\$500	\$471
Central Park	Phoenix	AZ	293	88.1%	92.5%	\$426	\$409
Desert Skies	Phoenix	AZ	164	91.5%	93.9%	\$353	\$338
Fairview Manor	Tucson	AZ	235	82.6%	85.1%	\$358	\$342
Hacienda de Valencia	Mesa	AZ	364	74.7%	79.4%	\$412	\$395
Palm Shadows	Glendale	AZ	294	80.6%	87.1%	\$393	\$372
Sedona Shadows	Sedona	AZ	198	93.4%	93.4%	\$391	\$355
Sunrise Heights	Phoenix	AZ	199	79.9%	88.4%	\$409	\$386
The Mark	Mesa	AZ	410	61.0%	74.9%	\$410	\$392
The Meadows	Tempe	AZ	391	74.4%	85.2%	\$464	\$455
Whispering Palms	Phoenix	AZ	116	90.5%	93.1%	\$316	\$295
TOTAL ARIZONA MARKET			4,021	79.6%	85.9%	\$425	\$406
ARIZONA MARKET - CORE PORTFOLIO			4,021	79.6%	85.9%	\$425	\$406

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PROPERTY	LOCATION CITY, STATE		NUMBER	OCCUPANCY	OCCUPANCY	MONTHLY	MONTHLY
			OF SITES	AS OF	AS OF	BASE RENT	BASE RENT
			AS OF	AS OF	AS OF	AS OF	AS OF
			12/31/03	12/31/03	12/31/02	12/31/03	12/31/02
COLORADO							
Bear Creek	Sheridan	CO	122	95.1%	97.6%	\$471	\$446
Cimarron	Broomfield	CO	327	93.9%	97.6%	\$464	\$445
Golden Terrace	Golden	CO	265	91.7%	96.6%	\$512	\$492
Golden Terrace South	Golden	CO	160	85.0%	95.0%	\$503	\$483
Golden Terrace West	Golden	CO	316	93.4%	96.5%	\$510	\$490
Hillcrest Village	Aurora	CO	601	88.6%	91.7%	\$490	\$472
Holiday Hills	Denver	CO	736	92.3%	92.3%	\$484	\$466
Holiday Village	Co. Springs	CO	240	90.4%	92.9%	\$494	\$446
Pueblo Grande	Pueblo	CO	251	94.4%	96.4%	\$311	\$296
Woodland Hills	Denver	CO	434	88.0%	93.8%	\$456	\$439
TOTAL COLORADO MARKET			3,452	87.7%	94.2%	\$472	\$452
COLORADO MARKET - CORE PORTFOLIO			3,452	91.1%	94.2%	\$472	\$452
NORTHEAST							
Aspen Meadows	Rehoboth	DE	200	99.5%	100.0%	\$288	\$277
Camelot Meadows	Rehoboth	DE	302	99.0%	100.0%	\$290	\$272
Mariners Cove	Millsboro	DE	374	91.2% (b)	90.1% (b)	\$424	\$399
McNicol	Rehoboth	DE	93	98.9%	100.0%	\$293	\$278
Sweetbriar	Rehoboth	DE	146	94.5%	95.9%	\$246	\$228
Waterford	Bear	DE	731	95.3% (b)	96.4% (b)	\$423	\$410
Whispering Pines	Lewes	DE	392	87.2%	95.2%	\$315	\$274
Pheasant Ridge	Mt. Airy	MD (a)	---	---	98.0% (d)	---	\$468 (d)
Brook Gardens	Lackawanna	NY (a)	---	---	93.9% (d)	---	\$446 (d)
Greenwood Village	Manorville	NY	512	99.2%	98.8%	\$428	\$406
Green Acres	Breinigsville	PA	595	93.8%	94.8%	\$452	\$438
Meadows of Chantilly	Chantilly	VA	500	88.8%	94.8%	\$604	\$544
Independence Hill	Morgantown	WV (a)	---	---	87.2% (d)	---	\$221 (d)
TOTAL NORTHEAST MARKET			3,845	94.1%	95.6%	\$412	\$387
NORTHEAST MARKET - CORE PORTFOLIO			3,845	94.1%	96.1%	\$412	\$387

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PROPERTY	LOCATION CITY, STATE		NUMBER	OCCUPANCY	OCCUPANCY	MONTHLY	MONTHLY
			OF SITES	AS OF	AS OF	BASE RENT	BASE RENT
			AS OF	AS OF	AS OF	AS OF	AS OF
			12/31/03	12/31/03	12/31/02	12/31/03	12/31/02
MIDWEST							
Five Seasons	Cedar Rapids	IA	390	73.1% (b)	76.4% (b)	\$276	\$264
Holiday Village	Sioux City	IA	519	65.7%	73.8%	\$252	\$252
Golf Vista Estates	Monee	IL	411	95.9% (b)	88.1% (b)	\$441	\$393
Willow Lake Estates	Elgin	IL	617	90.1%	94.2%	\$694	\$660
Forest Oaks	Chesterton	IN	227	71.8%	76.2%	\$332	\$330
Oak Tree Village	Portage	IN	361	86.7%	88.9%	\$342	\$332
Windsong	Indianapolis	IN	268	57.8%	72.0%	\$320	\$309
Creekside	Wyoming	MI	165	87.3%	93.3%	\$407	\$382
TOTAL MIDWEST MARKET			2,958	79.5%	83.3%	\$423	\$399
MIDWEST MARKET - CORE PORTFOLIO			2,958	79.5%	83.3%	\$423	\$399
NEVADA, UTAH, NEW MEXICO							
Del Rey	Albuquerque	NM	407	67.1%	76.7%	\$374	\$341
Bonanza	Las Vegas	NV	353	68.0%	72.8%	\$484	\$473
Boulder Cascade	Las Vegas	NV	299	76.9%	81.9%	\$446	\$436
Cabana	Las Vegas	NV	263	93.5%	95.4%	\$447	\$442
Flamingo West	Las Vegas	NV	258	94.6% (b)	88.8% (b)	\$461	\$449
Villa Borega	Las Vegas	NV	293	82.9%	87.0%	\$454	\$433
All Seasons	Salt Lake City	UT	121	93.4%	96.7%	\$370	\$352
Westwood Village	Farr West	UT	314	95.2% (b)	95.2% (b)	\$280	\$259
TOTAL NEVADA, UTAH, NEW MEXICO MARKET			2,308	81.8%	85.2%	\$413	\$398
NEVADA, UTAH, NEW MEXICO MARKET - CORE PORTFOLIO			2,308	81.8%	85.2%	\$413	\$396
NORTHWEST							
Casa Village	Billings	MT	491	85.9%	88.0%	\$304	\$294
Falcon Wood Village	Eugene	OR	183	90.7%	92.9%	\$403	\$351
Quail Hollow	Fairview	OR	137	92.7%	93.4%	\$507	\$500
Shadowbrook	Clackamas	OR	156	94.2%	96.8%	\$513	\$494
Kloshe Illahee	Federal Way	WA	258	97.7%	99.6%	\$599	\$513
TOTAL NORTHWEST MARKET			1,225	90.9%	92.9%	\$436	\$402
NORTHWEST MARKET - CORE PORTFOLIO			1,225	90.9%	92.9%	\$436	\$402
GRAND TOTAL ALL MARKETS			43,143	90.5%	92.4%	\$422	\$403
GRAND TOTAL ALL MARKETS - CORE PORTFOLIO			41,580	90.4% (c)	92.4% (c)	\$427	\$407

(a) Represents a Property that is not part of the Core Portfolio.

(b) The process of filling Expansion Sites at these Properties is ongoing. A

decrease in occupancy may reflect development of additional Expansion Sites.

- (c) Changes in total portfolio occupancy include the impact of acquisitions and expansion programs and are therefore not comparable.
- (d) Property sold in 2003.

See Management's Discussion and Analysis of Financial Condition and Results of Operations.

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### ITEM 3. LEGAL PROCEEDINGS

#### DEANZA SANTA CRUZ

The residents of DeAnza Santa Cruz Mobile Estates, a Property located in Santa Cruz, California, brought several actions opposing fees and charges in connection with water service at the Property. As a result of one action, the Company rebated approximately \$36,000 to the residents. The DeAnza Santa Cruz Homeowners Association ("HOA") then proceeded to a jury trial alleging these "overcharges" entitled them to an award of punitive damages. In January 1999, a jury awarded the HOA \$6.0 million in punitive damages. On December 21, 2001 the California Court of Appeal for the Sixth District reversed the \$6.0 million punitive damage award, the related award of attorneys' fees, and, as a result, all post-judgment interest thereon, on the basis that punitive damages are not available as a remedy for a statutory violation of the California Mobilehome Residency Law ("MRL"). The decision of the appellate court left the HOA, the plaintiff in this matter, with the right to seek a new trial in which it must prove its entitlement to either the statutory penalty and attorneys' fees available under the MRL or punitive damages based on causes of action for fraud, misrepresentation or other tort. In order to resolve this matter, the Company accrued for and agreed to pay \$201,000 to the HOA. This payment resolved the punitive damage claim. The HOA's attorney has made a motion asking for an award of attorneys' fees and costs in the amount of approximately \$1.5 million as a result of this resolution of the litigation. On April 2, 2003 the court awarded attorney's fees to the HOA's attorney in the amount of \$593,000 and court costs of approximately \$20,000. The Company has appealed this award and has not accrued for the amount in its consolidated financial statements.

#### OTHER CALIFORNIA RENT CONTROL LITIGATION

As part of the Company's effort to realize the value of its Properties subject to rent control, the Company has initiated lawsuits against several municipalities in California. The Company's goal is to achieve a level of regulatory fairness in California's rent control jurisdictions, and in particular those jurisdictions that prohibit increasing rents to market upon turnover. This regulatory feature, called vacancy control, allows tenants to sell their homes for a premium representing the value of the future discounted rent-controlled rents. In the Company's view, such regulation results in a transfer of the value of the Company's shareholders' land, which would otherwise be reflected in market rents, to tenants upon the sales of their homes in the form of an inflated purchase price that cannot be attributed to the value of the home being sold. As a result, in the Company's view, the Company loses the value of its asset and the selling tenant leaves the Community with a windfall premium. The Company has discovered through the litigation process that certain municipalities considered condemning the Company's Communities at values well below the value of the underlying land. In the Company's view, a failure to articulate market rents for sites governed by restrictive rent control would put the Company at risk for condemnation or eminent domain proceedings based on artificially reduced rents. Such a physical taking, should it occur, could represent substantial lost value to shareholders. The Company is cognizant of the need for affordable housing in the jurisdictions, but asserts that restrictive rent regulation with vacancy control does not promote this purpose because the benefits of such regulation are fully capitalized into the prices of the homes sold. The Company estimates that the annual rent subsidy to tenants in these jurisdictions is approximately \$15 million. In a more well-balanced regulatory environment, the Company would receive market rents that would

eliminate the subsidy and homes would trade at or near their intrinsic value.

In connection with such efforts, the Company recently announced it has entered into a settlement agreement with the City of Santa Cruz, California and that, pursuant to the settlement agreement, the City amended its rent control ordinance to exempt the Company's property from rent control as long as the Company offers a long term lease which gives the Company the ability to increase rents to market upon turnover and bases annual rent increases on the CPI. The settlement agreement benefits the Company's shareholders by allowing them to receive the value of their investment in this Community through vacancy decontrol while preserving annual CPI based rent increases in this age restricted Property.

The Company's efforts to achieve a balanced regulatory environment incentivize tenant groups to file lawsuits against the Company seeking large damage awards. The homeowners association at Contempo Marin ("CMHOA"), a 396 site Property in San Rafael, California, sued the Company in December 2000 over a prior settlement agreement on a capital pass-through after the Company sued the City of San Rafael in October 2000 alleging its rent control ordinance is unconstitutional. In the Contempo Marin case, the CMHOA prevailed on a motion for summary judgment on an issue that permits the Company to collect only \$3.72 out of a monthly pass-through amount of \$7.50 that the Company believes had been agreed to by the CMHOA in a settlement agreement. The Company intends to vigorously defend this matter, which has been stayed pending a related state court appeal by the Company of an order dismissing its claims against the City of San Rafael. The Company believes that such lawsuits will be a consequence of the Company's efforts to change rent control since tenant groups actively desire to preserve the premium value of their homes in addition to the discounted rents provided by rent control. The Company has determined that its efforts to rebalance the regulatory environment despite the risk of litigation from tenant groups are necessary not only because of the \$15 million annual subsidy to tenants, but also because of the condemnation risk.

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#### ELLENBURG COMMUNITIES

The Company and certain other parties entered into a settlement agreement (the "Settlement"), which was approved by the Los Angeles County Superior Court in April 2000. The Settlement resolved substantially all of the litigation and appeals involving the Ellenburg Properties, and transactions arising out of the Settlement closed on May 22, 2000. Only the appeal of one entity remained, the outcome of which was not expected to materially affect the Company.

In connection with the Ellenburg Acquisition, on September 8, 1999, Ellenburg Fund 20 ("Fund 20") filed a cross complaint in the Ellenburg dissolution proceeding against the Company and certain of its affiliates alleging causes of action for fraud and other claims in connection with the Ellenburg Acquisition. The Company subsequently successfully had the cross complaint against the Company and its affiliates dismissed with prejudice by the California Superior Court. However, Fund 20 appealed. Although this appeal was one not resolved by the Settlement, the California Court of Appeal dismissed Fund 20's substantive appeals on March 13, 2003 as moot. Fund 20 petitioned the California Supreme Court to review this decision which review was denied.

In October 2001, Fund 20 sued the Company and certain of its affiliates again, this time in Alameda County, California making substantially the same allegations. The Company obtained an injunction preventing the case from proceeding until the Fund 20 appeal is decided and other related proceedings in Arizona (from which the Company has already been dismissed with prejudice) are concluded. The Company obtained a court order enjoining Fund 20 from proceeding with its Alameda County action.

In February, 2004, the Company entered into a settlement agreement with Fund 20 resolving all remaining matters at no cost to the Company and with mutual releases.

## COUNTRYSIDE AT VERO BEACH

The Company has received letters dated June 17, 2002 and August 26, 2002 from Indian River County ("County"), claiming that the Company currently owes sewer impact fees in the amount of approximately \$518,000 with respect to the Property known as Countryside at Vero Beach, located in Vero Beach, Florida, purportedly under the terms of an agreement between the County and a prior owner of the Property. In response, the Company has advised the County that these fees are no longer due and owing as a result of a 1996 settlement agreement between the County and the prior owner of the Property, providing for the payment of \$150,000 to the County to discharge any further obligation for the payment of impact or connection fees for sewer service at the Property. The Company paid this settlement amount (with interest) to the County in connection with the Company's acquisition of the Property. Accordingly, the Company believes that the County's claims are without merit.

## DELAWARE DECLARATORY JUDGMENT ACTION

In April 2002, the Company entered into a Stipulation and Consent Order to Cease and Desist (the "Consent Order") with the State of Delaware (the "State"). The Consent Order resolved various issues raised by the State concerning the terms of a new lease form used or proposed for use by the Company at certain of its Properties in Delaware. Among other provisions, the Consent Order contemplated that the Company would work with the State to develop and implement a new lease form for use in Delaware. The Consent Order expressly provided that nothing contained therein would preclude the Company from seeking declaratory relief from a court as to the legality or enforceability of any provisions which the Company might wish to incorporate in future leases.

Throughout the summer of 2002, the Company's Delaware legal counsel engaged in dialogue with representatives of the State concerning various matters, including the lease provisions to which the State had objected but which the Company wished to incorporate in future leases. Through this process, it became apparent that the parties could not reach agreement as to the legality or enforceability of the proposed lease provisions, and that the Company would need to seek declaratory relief from a court in order to resolve the matter, as contemplated by the Consent Order. Accordingly, on August 29, 2002, the Company filed a Petition for Declaratory Judgment and Other Relief (as amended, the "Petition") in Sussex County, Delaware Superior Court (the "Court").

In response to the filing of the Petition, on October 1, 2002, the State filed its Answer to Petition for Declaratory and Other Relief, and Counterclaims for Civil Enforcement and Contempt (as amended, "Answer and Counterclaim") with the Court. In the Answer and Counterclaim, the State sought, inter alia, restitution, statutory penalties, investigative costs and attorneys' fees under the Delaware Mobile Home Lots and Leases Act, the Consumer Fraud Act, the Uniform Deceptive

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Trade Practices Act and the Delaware Consumer Contracts law, and separately sought a finding of contempt and related contempt penalties for alleged violations of the Consent Order.

The Company filed a Motion to Dismiss Respondents' Counterclaims with the Court on October 29, 2002, and the State filed a Motion for Summary Judgment with the Court on November 15, 2002. On December 30, 2002, the Company filed a First Amended Petition for Declaratory Judgment and Other Relief with the Court, and on January 31, 2003, the State filed an Amended Answer and Counterclaim with the Court.

On August 29, 2003, the Court issued its decision disposing of all pending claims in the litigation except one. Specifically, the Court held, inter alia, that (i) the Company may eliminate the rent cap formula from existing leases at certain of its Delaware Properties as the leases come up for renewal, (ii) certain lease provisions proposed by the Company may not be implemented or enforced under applicable state law, (iii) the change in water supplier at one

of the Properties did not violate the leases at such Property, (iv) the Company did not violate the Consent Order by filing the Petition, and (v) the Company did not violate any state statutes as alleged by the State.

The August 29, 2003 decision left open the issue of whether the Company had violated the Consent Order by continuing to use the disputed lease form (but not enforce the provisions at issue) at one of its Properties following entry of the Consent Order (the Company believed that it had no choice but to continue to use this lease form until the State had approved a new form for use at the Property as contemplated by the Consent Order). On October 3, 2003, the Court issued its final order, finding that continued use of the disputed lease form, as to new tenants but not as to renewal tenants, following entry of the Consent Order constituted a violation thereof, and assessing a civil penalty in the amount of \$5,000.

On November 3, 2003, the State filed a Notice of Appeal with the Supreme Court of the State of Delaware, appealing a portion of the Court's order denying the State's Motion for Summary Judgment. The State's appeal is limited to the single issue of whether the Company has the right to eliminate "rent cap" provisions contained in certain existing leases upon automatic renewal of the leases in accordance with Delaware law. The appeal has been fully briefed, and oral argument in the matter is scheduled for March 16, 2004.

On November 14, 2003, the State filed a motion for Stay Pending Appeal with the Court, and on December 3, 2003, the Company filed its response opposing the motion. On December 16, 2003, the Court issued its order on the motion, holding that the Company may proceed to issue notices of default to tenants who fail to pay the full amount of their current rental obligations, but may not initiate eviction proceedings against such tenants until April 1, 2004, and may not enforce any such eviction order until the Supreme Court rules on the appeal.

#### OTHER

The Company is involved in various other legal proceedings arising in the ordinary course of business. Management believes that all proceedings herein described or referred to, taken together, are not expected to have a material adverse impact on the Company.

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#### ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

The Company held its Annual Meeting of Stockholders on May 13, 2003. Stockholders holding 17,534,693 Common Shares (being the only class of shares entitled to vote at the meeting), or 78.8% of the Company's issued and outstanding Common Shares as of the record date for the meeting, attended the meeting or were represented by proxy. The Company's shareholders voted on two matters presented at the meeting and both received the requisite number of votes to pass. The results of the stockholders' vote on each of the two matters were as follows:

PROPOSAL 1 - Election of three directors to terms expiring in 2006.

	TOTAL VOTE FOR EACH DIRECTOR*	TOTAL VOTE WITHHELD FROM EACH DIRECTOR*
Howard Walker	92.40%	7.60%
Donald S. Chisholm	99.73%	.27%
Thomas E. Dobrowski	99.16%	.84%

\* This percentage represents the number of shares voting in this matter out of the total number of shares voted at the meeting, not out of the total shares outstanding. This matter required a plurality of votes cast for



approval.

PROPOSAL 2 - Approval of an amendment to the Company's Charter to eliminate the current classification of the board (this matter required the affirmative vote of two-thirds of all votes entitled to be cast on the proposal).

For	16,878,607	96.3%
Against	627,753	3.5%
Abstain	28,332	0.2%
Non-vote	1	0%

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PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

The following table sets forth, for the period indicated, the high and low sale prices for the Company's common stock as reported by The New York Stock Exchange under the trading symbol MHC.

	Close	High	Low	Distributions Declared	Return of Capital GAAP Basis(a)
	-----	-----	-----	-----	-----
2003					
1st Quarter	\$29.60	\$30.86	\$27.40	\$ .4950	\$.15
2nd Quarter	35.11	35.80	29.56	.4950	.16
3rd Quarter	39.18	39.80	35.11	.4950	.00
4th Quarter	37.65	41.92	36.70	8.0000(b)	.00
2002					
1st Quarter	\$33.00	\$33.63	\$30.65	\$ .4750	\$.15
2nd Quarter	35.10	35.66	32.50	.4750	.18
3rd Quarter	31.88	35.14	30.05	.4750	.17
4th Quarter	29.63	31.92	27.50	.4750	.00

(a) Represents distributions per share in excess of net income per share-basic on a GAAP basis and is not the same as return of capital on a tax basis.

(b) On December 12, 2003, we declared a one-time special distribution of \$8.00 per share payable to stockholders of record on January 8, 2004. We used proceeds from the \$501 million borrowing in October, 2003 to pay the special distribution on January 16, 2004. The special cash dividend will be reflected on shareholders' 2004 1099-DIV to be issued in January 2005.

The number of beneficial holders of the Company's common stock at December 31, 2003 was approximately 5,049.

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ITEM 6. SELECTED FINANCIAL AND OPERATING INFORMATION

The following table sets forth selected financial and operating information on a historical basis for the Company. The following information should be read in conjunction with all of the financial statements and notes thereto included elsewhere in this Form 10-K. The historical operating data for the years ended December 31, 2003, 2002, 2001, 2000, and 1999 have been derived from the historical Financial Statements of the Company.

MANUFACTURED HOME COMMUNITIES, INC.  
 CONSOLIDATED HISTORICAL FINANCIAL INFORMATION  
 (Amounts in thousands, except for per share and property data)

(1) YEARS ENDED DECEMBER 31,  
 -----  
 2003                      2002                      2001                      2000                      1999

PROPERTY OPERATIONS:					
Community base rental income .....	\$ 196,919	\$194,640	\$190,982	\$185,023	\$177,411
Resort base rental income .....	11,780	9,146	5,748	7,414	9,526
Utility and other income .....	20,150	19,684	20,381	19,357	19,549
Property operating revenues .....	228,849	223,470	217,111	211,794	206,486
Property operating and maintenance .....	64,996	62,843	60,807	57,973	56,895
Real estate taxes .....	18,917	17,827	16,882	16,407	15,924
Property management .....	9,373	9,292	8,984	8,690	8,337
Property operating expenses .....	93,286	89,962	86,673	83,070	81,156
Income from property operations .....	135,563	133,508	130,438	128,724	125,330
HOME SALES OPERATIONS:					
Gross revenues from inventory home sales .....	36,606	33,537	---	---	---
Cost of inventory home sales .....	(31,767)	(27,183)	---	---	---
Gross profit from inventory home sales .....	4,839	6,354	---	---	---
Brokered resale revenues, net .....	1,724	1,592	---	---	---
Home selling expenses .....	(7,360)	(7,664)	---	---	---
Ancillary services revenues, net .....	216	522	---	---	---
Income from home sales operations .....	(581)	804	---	---	---
OTHER INCOME AND EXPENSES:					
Interest income .....	1,695	967	639	1,009	1,669
Equity in income of affiliates .....	---	---	1,811	2,408	2,065
Other corporate income .....	2,065	1,277	1,353	670	280
General and administrative .....	(8,060)	(8,192)	(6,687)	(6,423)	(6,092)
Interest and related amortization(2) .....	(58,402)	(50,729)	(51,305)	(53,280)	(53,775)
Loss on the extinguishment of debt .....	---	---	---	(1,041)	---
Depreciation on corporate assets .....	(1,240)	(1,277)	(1,243)	(1,139)	(1,005)
Depreciation on real estate assets and other costs .....	(38,034)	(35,552)	(34,228)	(33,713)	(33,955)
Gain on sale of properties and other .....	---	---	8,168	12,053	---
Total other income and expenses .....	(101,976)	(93,506)	(81,492)	(79,456)	(90,813)
MINORITY INTERESTS:					
(Income) allocated to Common OP Units .....	(4,330)	(5,848)	(7,688)	(7,968)	(5,761)
(Income) allocated to Perpetual Preferred OP Units.....	(11,252)	(11,252)	(11,252)	(11,252)	(2,844)
Income from continuing operations .....	17,424	23,706	30,006	30,048	25,912
DISCONTINUED OPERATIONS:					
Discontinued Operations .....	908	2,803	2,598	2,392	2,318
Gain on sale of properties and other .....	10,826	13,014	---	---	---
Minority interests on discontinued operations .....	(2,144)	(3,078)	(521)	(495)	(458)
Income from discontinued operations .....	9,590	12,739	2,077	1,897	1,860
NET INCOME AVAILABLE FOR COMMON SHARES .....	\$ 27,014	\$ 36,445	\$ 32,083	\$ 31,945	\$ 27,772

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MANUFACTURED HOME COMMUNITIES, INC.  
CONSOLIDATED HISTORICAL FINANCIAL INFORMATION  
(continued)

(Amounts in thousands, except for per share and property data)

	(1) AS OF DECEMBER 31,				
	2003	2002	2001	2000	1999
EARNINGS PER COMMON SHARE - BASIC:					
Income from continuing operations .....	\$ .79	\$ 1.10	\$ 1.43	\$ 1.40	\$ 1.03
Income from discontinued operations .....	\$ .43	\$ .59	\$ .10	\$ .09	\$ .07
Net income available for Common Shares .....	\$ 1.22	\$ 1.69	\$ 1.53	\$ 1.49	\$ 1.10
EARNINGS PER COMMON SHARE - FULLY DILUTED:					
Income from continuing operations .....	\$ .78	\$ 1.07	\$ 1.40	\$ 1.37	\$ 1.01
Income from discontinued operations .....	\$ .42	\$ .57	\$ .09	\$ .09	\$ .08
Net income available for Common Shares .....	\$ 1.20	\$ 1.64	\$ 1.49	\$ 1.46	\$ 1.09
Distributions declared per Common Shares outstanding(2) .....	\$ 9.485	\$ 1.90	\$ 1.78	\$ 1.66	\$ 1.55
Weighted average Common Shares outstanding - basic ....	22,077	21,617	21,036	21,469	25,224
Weighted average Common OP Units outstanding .....	5,342	5,403	5,466	5,592	5,704
Weighted average Common Shares outstanding - fully diluted .....	28,002	27,632	27,010	27,408	31,252
BALANCE SHEET DATA:					
Real estate, before accumulated depreciation(3) .....	\$1,315,096	\$1,296,007	\$1,238,138	\$1,218,176	\$1,264,343
Total assets .....	1,473,915	1,162,850	1,101,805	1,104,304	1,160,338
Total mortgages and loans(2) .....	1,076,296	760,233	708,857	719,684	725,264
Minority interests .....	126,716	168,501	171,147	171,271	179,397
Stockholders' equity(2) .....	5,798	177,619	175,150	168,095	211,401
OTHER DATA:					
Funds from operations(4) .....	\$ 60,831	\$ 68,393	\$ 66,957	\$ 63,807	\$ 68,477
Net cash flow:					
Operating activities .....	\$ 75,163	\$ 80,176	\$ 80,708	\$ 68,001	\$ 72,580
Investing activities .....	\$ (598)	\$ (72,973)	\$ (23,067)	\$ 23,102	\$ (37,868)
Financing activities .....	\$ 243,905	\$ (1,287)	\$ (59,134)	\$ (94,932)	\$ (41,693)
Total Properties (at end of period) (5) .....	142	142	149	154	157
Total sites (at end of period) .....	51,715	51,582	50,663	51,304	53,846
Total sites (weighted average for the year) (6) .....	43,134	42,962	46,243	46,964	46,914

(1) See the Consolidated Financial Statements of the Company included elsewhere

herein. Certain 2002, 2001, 2000, and 1999 amounts have been reclassified to conform to the 2003 financial presentation. Such reclassifications have no effect on the operations or equity as originally presented.

- (2) On October 17, 2003, we closed 49 mortgage loans collateralized by 51 Properties (the "Recap") providing total proceeds of approximately \$501 million at a weighted average interest rate of 5.84% and with a weighted average maturity of approximately 9 years. Approximately \$170 million of the proceeds were used to repay amounts outstanding on the Company's line of credit and term loan. Approximately \$225 million was used to pay a special distribution of \$8.00 per share on January 16, 2004. The remaining funds are being held in short-term investments and will be used for investment purposes in 2004. The Recap resulted in increased interest and amortization expense and the special distribution resulted in decreased stockholder's equity.
- (3) We believe that the book value of the Properties, which reflects the historical costs of such real estate assets less accumulated depreciation, is less than the current market value of the Properties.
- (4) We generally consider Funds From Operations ("FFO") to be an appropriate measure of the non-GAAP performance of an equity Real Estate Investment Trust ("REIT"). FFO was redefined by the National Association of Real Estate Investment Trusts ("NAREIT") in April 2002, as net income (computed in accordance with generally accepted accounting principles ["GAAP"]), before allocation to minority interests, excluding gains (or losses) from sales of property, plus real estate depreciation and after adjustments for unconsolidated partnerships and joint ventures. For purposes of presenting FFO, the revised definition of FFO has been given retroactive treatment. We believe that FFO is helpful to investors as a measure of the performance of an equity REIT because, along with cash flows from operating activities, financing activities and investing activities, it provides investors an understanding of our ability to incur and service debt and to make capital expenditures. We compute FFO in accordance with the NAREIT definition which may differ from the methodology for calculating FFO utilized by other equity REITs and, accordingly, may not be comparable to such other REITs' computations. FFO in and of itself does not represent cash generated from operating activities in accordance with GAAP and therefore should not be considered an alternative to net income as an indication of our performance or to net cash flows from operating activities as determined by GAAP as a measure of liquidity and is not necessarily indicative of cash available to fund cash needs.

- (5) During the year ended December 31, 1999, three Properties were acquired; net operating income attributable to such Properties during 1999 was approximately \$87,000, which included approximately \$104,000 of depreciation expense. During the year ended December 31, 2000, three Properties and a water and wastewater treatment company were sold; net operating income attributable to such Properties during 2000 was approximately \$1.6 million, which included approximately \$623,000 of depreciation expense. During the year ended December 31, 2001, three Properties were acquired, including one through the termination of a lease; net operating income attributable to such Properties during 2001 was approximately \$1.3 million, which included approximately \$396,000 of depreciation expense. Also during the year ended December 31, 2001, eight Properties were sold; net operating income attributable to such Properties during 2001 was \$1.0 million, which included approximately \$235,000 of depreciation expense. During the year ended December 31, 2002, eleven Properties were acquired; net operating income attributable to such Properties during 2002 was approximately \$2.0 million, which included approximately \$809,000 of depreciation expense. Also during the year ended

December 31, 2002, eighteen Properties were sold; net operating income attributable to such Properties during 2002 was \$5.4 million, which included approximately \$1.2 million of depreciation expense. During the year ended December 31, 2003, three Properties were acquired; net operating loss attributable to such Properties during 2003 was approximately \$25,000, which included approximately \$25,000 of depreciation expense. Also during the year ended December 31, 2003, three Properties were sold; net operating income attributable to such Properties during 2003 was \$908,000, which included approximately \$135,000 of depreciation expense.

(6) Excludes Resort sites and sites in Properties owned through unconsolidated joint ventures.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with "Selected Financial Data" and the historical Consolidated Financial Statements and Notes thereto appearing elsewhere in this Form 10-K. The following discussion may contain certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 which reflect management's current views with respect to future events and financial performance. Such forward-looking statements are subject to certain risks and uncertainties, including, but not limited to, the effects of future events on the Company's financial performance; the adverse impact of external factors such as inflation and consumer confidence; and the risks associated with real estate ownership.

PROPERTY ACQUISITIONS, JOINT VENTURES AND DISPOSITIONS

The following chart lists the Properties acquired and sold since January 1, 2002:

PROPERTY -----	TRANSACTION DATE -----	SITES -----
TOTAL SITES AS OF JANUARY 1, 2002.....		50,663
ACQUISITIONS:		
Mt. Hood Village.....	March 12, 2002	450
Harbor View Village.....	July 10, 2002	471
Countryside.....	July 31, 2002	560
Golden Sun.....	July 31, 2002	329
Breezy Hill.....	July 31, 2002	762
Highland Woods.....	August 14, 2002	148
Holiday Village.....	July 31, 2002	301
Tropic Winds.....	August 7, 2002	531
Silk Oak Lodge.....	October 1, 2002	180
Hacienda Village.....	December 18, 2002	519
Glen Ellen.....	December 31, 2002	117
Toby's.....	December 3, 2003	379
Araby Acres.....	December 15, 2003	337
Foothill .....	December 15, 2003	180
EXPANSION SITE DEVELOPMENT AND OTHER:		
Sites added (reconfigured) in 2002.....		90
Sites added (reconfigured) in 2003.....		(35)
DISPOSITIONS:		
College Heights (17 Properties).....	September 1, 2002	(3,220)
Camelot Acres.....	November 13, 2002	(319)
Independence Hill.....	June 6, 2003	(203)
Brook Gardens.....	June 6, 2003	(424)

Pheasant Ridge.....	June 30, 2003	(101)
		-----
TOTAL SITES AS OF DECEMBER 31, 2003.....		51,715
		=====

TRENDS

Occupancy in our Properties as well as our ability to increase rental rates directly affect revenues. In 2003, occupancy in our Core Portfolio decreased 1.9%. Also during 2003, average monthly base rental rates for the Core Portfolio increased approximately 5.1%. We project continued growth during 2004 in our Core Portfolio performance. Core Portfolio base rental-rate growth is expected to be approximately 4%. These projections would result in growth of approximately 2.5% in Core Portfolio income from operations (also referred to as net operating income or "NOI").

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States, which require us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and the related disclosures. We believe that the following critical accounting policies, among others, affect our more significant judgments and estimates used in the preparation of our consolidated financial statements.

We periodically evaluate our long-lived assets, including our investments in real estate, for impairment indicators. Our judgments regarding the existence of impairment indicators are based on factors such as operational performance, market conditions and legal factors. Future events could occur which would cause us to conclude that impairment indicators exist and an impairment loss is warranted.

Real estate is recorded at cost less accumulated depreciation. Depreciation is computed on the straight-line basis over the estimated useful lives of the assets. We use a 30-year estimated life for buildings acquired and structural and land improvements, a ten-to-fifteen-year estimated life for building upgrades and a three-to-seven-year estimated life for furniture, fixtures and equipment. Expenditures for ordinary maintenance and repairs are expensed to operations as incurred and significant renovations and improvements that improve the asset and extend the useful life of the asset are capitalized over their estimated useful life. However, the useful lives, salvage value, and customary depreciation method used for land improvements and other significant assets may significantly and materially overstate the depreciation of the underlying assets and therefore understate the net income of the Company. In addition, the Financial Accounting Standards Board ("FASB") is currently reviewing the methods of depreciation and cost capitalization for all industries and in June 2001 issued FASB Exposure Draft, "Accounting in Interim and Annual Financial Statements for Certain Costs and Activities Related to Property, Plant and Equipment", the implementation of which, if issued, could also have a material effect on the Company's results of operations.

The valuation of financial instruments under Statement of Financial Accounting Standards No. 107, "Disclosures About Fair Value of Financial Instruments" ("SFAS No. 107") and Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS No. 133") requires us to make estimates and judgments that affect the fair value of the instruments. Where possible, we base the fair values of our financial instruments, including our derivative instruments, on listed market prices and third party quotes. Where these are not available, we base our estimates on other factors relevant to the financial instrument.

Certain costs, primarily legal costs, relative to our efforts to effectively change the use and operations of several Properties subject to rent

control (see Note 17) are currently classified in other assets. These costs, to the extent these efforts are successful, are capitalized to the extent of the established value of the revised project and included in the net investment in real estate for the appropriate Properties (see Note 5). To the extent these efforts are not successful, these costs will be expensed. In addition, we capitalize certain costs, primarily legal costs, related to entering into lease agreements which govern the terms under which we may enter into leases with individual tenants and which are expensed over the term of the lease agreement. In 2003, due to the successful settlement of litigation related to one Property, DeAnza Santa Cruz, we reclassified approximately \$5.3 million of these costs to land improvements and will depreciate these costs over 30 years

In January 2003, the FASB issued Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"). The objective of FIN 46 is to provide guidance on how to identify a variable interest entity ("VIE") and determine when the assets, liabilities, non-controlling interests, and results of operations of a VIE need to be included in the company's consolidated financial statements. A company that holds variable interests in an entity will need to consolidate such entity if the company absorbs a majority of the VIE's expected losses or receive a majority of the entity's expected residual returns if they occur, or both.

The provisions of FIN 46 apply to the Company upon initial involvement with the respective entity for transactions created after January 31, 2003. The adoption of FIN 46 in 2003 had no effect on the Company in 2003. The provisions of FIN 46 and related revised interpretations apply no later than the end of the first interim reporting period ending March 15, 2004 (March 31, 2004) for entities created before February 1, 2003. The Company is currently evaluating and assessing the impact of FIN 46 and the related revised interpretations on entities created before February 1, 2003.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

Prior to January 1, 2003 we accounted for our stock compensation in accordance with APB No. 25, "Accounting for Stock Issued to Employees", based upon the intrinsic value method. This method results in no compensation expense for options issued with an exercise price equal to or exceeding the market value of the Common Shares on the date of grant. Effective January 1, 2003, we elected to account for our stock-based compensation in accordance with SFAS No. 123 and its amendment (SFAS No. 148), "Accounting for Stock Based Compensation", which will result in compensation expense being recorded based on the fair value of the stock options and other equity awards issued. SFAS 148 provides three possible transition methods for changing to the fair value method. We have elected to use the modified-prospective method. This method requires that we recognize stock-based employee compensation cost from the beginning of the fiscal year in which the recognition provisions are first applied as if the fair value method had been used to account for all employee awards granted, or settled, in fiscal years beginning after December 15, 1994. The following table illustrates the effect on net income and earnings per share as if the fair value method was applied to all outstanding and unvested awards in each period presented (amounts in thousands, except per share data):

	2003 -----	2002 -----	2001 -----
Net income available for Common Shares as reported .....	\$27,014	\$36,445	\$32,083
Add: Stock-based compensation expense included in net income as reported .....	2,139	2,185	2,549
Deduct: Stock-based compensation expense determined under the fair			

value based method for all awards ..	(2,139)	(2,086)	(2,203)
	-----	-----	-----
Pro forma net income available for Common Shares .....	\$27,014	\$36,544	\$32,429
	=====	=====	=====
Pro forma net income per Common Share - Basic .....	\$ 1.22	\$ 1.69	\$ 1.54
	=====	=====	=====
Pro forma net income per Common Share - Fully Diluted .....	\$ 1.20	\$ 1.65	\$ 1.50
	=====	=====	=====

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## RESULTS OF OPERATIONS

### COMPARISON OF YEAR ENDED DECEMBER 31, 2003 TO YEAR ENDED DECEMBER 31, 2002

Since December 31, 2001, the gross investment in real estate increased from \$1,238 million to \$1,315 million as of December 31, 2003, due primarily to the aforementioned acquisitions and dispositions of Properties during the period. The total number of sites owned or controlled increased from 50,663 as of December 31, 2001 to 51,715 as of December 31, 2003.

The following table summarizes certain financial and statistical data for the Property Operations for the Core Portfolio and the Total Portfolio for the years ended December 31, 2003 and 2002.

(dollars in thousands)	CORE PORTFOLIO				TOTAL PORTFOLIO			
	2003	2002	INCREASE/ (DECREASE)	% CHANGE	2003	2002	INCREASE/ (DECREASE)	% CHANGE
Community base rental income .....	\$191,655	\$185,766	\$ 5,889	3.2%	\$196,919	\$194,640	\$ 2,279	1.2%
Resort base rental income .....	256	154	102	66.2%	11,780	9,146	2,634	28.8%
Utility and other income .....	18,764	18,458	306	7.5%	20,150	19,684	466	2.4%
Property operating revenues .....	210,675	204,378	6,297	3.1%	228,849	223,470	5,379	2.4%
Property operating and maintenance .....	56,535	54,510	2,025	3.7%	64,996	62,843	2,153	3.4%
Real estate taxes .....	17,278	16,338	940	5.8%	18,917	17,827	1,090	6.1%
Property management .....	8,629	8,498	131	1.5%	9,373	9,292	81	0.9%
Property operating expenses .....	82,442	79,346	3,096	4.5%	93,286	89,962	3,324	3.7%
Income from property operations ...	\$128,233	\$125,032	\$ 3,201	2.6%	\$135,563	\$133,508	\$ 2,055	1.5%
Site and Occupancy Information(1):								
Average total sites .....	41,570	41,578	(8)	0.0%	43,134	43,627	(493)	(1.1%)
Average occupied sites .....	37,893	38,594	(701)	(1.9%)	39,363	40,467	(1,104)	(2.7%)
Occupancy % .....	91.2%	92.8%	(1.7%)	(1.7%)	91.3%	92.8%	(1.5%)	(1.5%)
Monthly base rent per site .....	\$ 421.49	\$ 401.11	\$ 20.38	5.1%	\$ 416.89	\$ 400.82	\$ 16.07	4.0%
Total sites								
As of December 31, .....	41,580	41,590	(10)	0.0%	43,143	43,178	(35)	(0.0%)
Total occupied sites								
As of December 31, .....	37,479	38,346	(867)	(2.3%)	38,946	39,736	(790)	(2.0%)

(1) Site and occupancy information excludes Resort sites and Properties owned through unconsolidated joint ventures as well as the sites of Properties acquired or sold during 2002 and 2003.

### Property Operating Revenues

The 3.2% increase in Community base rental income for the Core Portfolio reflects a 5.1% increase in monthly base rent per site coupled with a 1.9% decrease in average occupied sites. The increase in utility and other income for the Core Portfolio is due primarily to increases in utility income, which resulted from higher expenses for these items.

### Property Operating Expenses

The 3.7% increase in property operating and maintenance expense for the Core Portfolio is due primarily to increases in insurance and other expenses, utility expense, repair and maintenance expense, administrative expense and payroll expense. The 5.8% increase in Core Portfolio real estate taxes is generally due to higher property assessments on certain Properties. Property management expense for the Core Portfolio, which reflects costs of managing the Properties and is estimated based on a percentage of Property operating revenues, increased by 1.5% due to increases in payroll costs and computer expenses.

RESULTS OF OPERATIONS (CONTINUED)

COMPARISON OF YEAR ENDED DECEMBER 31, 2003 TO YEAR ENDED DECEMBER 31, 2002  
(CONTINUED)

Home Sales Operations

The following table summarizes certain financial and statistical data for the Home Sales Operations for the years ended December 31, 2003 and 2002.

(dollars in thousands)	HOME SALES OPERATIONS			
	2003	2002	INCREASE/ (DECREASE)	% CHANGE
Gross revenues from new home sales...	\$ 33,512	\$ 30,618	2,894	9.5%
Cost of new home sales .....	(29,064)	(24,689)	4,375	17.7%
Gross profit from new home sales ....	4,448	5,929	(1,481)	(25.0%)
Gross revenues from used home sales	3,094	2,919	175	6.0%
Cost of used home sales .....	(2,703)	(2,494)	209	8.4%
Gross profit from used home sales ...	391	425	(34)	(8.0%)
Brokered resale revenues, net .....	1,724	1,592	132	8.3%
Home selling expenses .....	(7,360)	(7,664)	(304)	(4.0%)
Ancillary services revenues, net ....	216	522	(306)	(58.6%)
Income from home sales operations ...	\$ (581)	\$ 804	(1,385)	(172.3%)
HOME SALES VOLUMES:				
New home sales .....	458	420	38	9.0%
Used home sales .....	189	182	7	3.8%
Brokered home resales .....	1,102	986	116	11.8%

New home sales gross profit reflects a 9.0% increase in sales volume coupled with a 6.1% decrease in the gross margin. The average selling price of new homes remained steady year over year. Used home sales gross profit reflects a decrease in gross margin on used home sales, partially offset by an increase in volume. Brokered resale revenues reflects increased resale volumes. The 4.0% decrease in home selling expenses primarily reflects reductions in advertising expenses.

Other Income and Expenses

In October, 2003, we received approximately \$501 million from the Recap. The cash received from the Recap was used to pay down our Line of Credit and pay off our Term Loan, with the remainder placed in short-term investments to be used for payment of a special distribution in January, 2004 and for future acquisitions. As a result, interest income increased reflecting additional interest earned on short-term investments with an average balance of \$273 million. The increase in other corporate income reflects increased income from



unconsolidated joint ventures. The decrease in general and administrative expense is due to decreased professional fees and public company costs, partially offset by increased payroll costs and banking expenses. Interest and related amortization increased due to the Recap and the payment of approximately \$3 million to unwind the 2001 Swap, partially offset by decreased interest rates during the period. The weighted average outstanding debt balances for the years ended December 31, 2003 and 2002 were approximately \$800 million and \$731.8 million, respectively. The effective interest rate was 6.4% and 6.8% per annum for the years ended December 31, 2003 and 2002, respectively.

RESULTS OF OPERATIONS (CONTINUED)

COMPARISON OF YEAR ENDED DECEMBER 31, 2002 TO YEAR ENDED DECEMBER 31, 2001

Since December 31, 2000, the gross investment in real estate increased from \$1,218 million to \$1,296 million as of December 31, 2002, due primarily to the aforementioned acquisitions and dispositions of Properties during the period. The total number of sites owned or controlled increased from 51,304 as of December 31, 2000 to 51,582 as of December 31, 2002.

The following table summarizes certain financial and statistical data for the Property Operations for the Core Portfolio and the Total Portfolio for the years ended December 31, 2002 and 2001.

(dollars in thousands)	CORE PORTFOLIO				TOTAL PORTFOLIO			
	2002	2001	INCREASE/ (DECREASE)	% CHANGE	2002	2001	INCREASE/ (DECREASE)	% CHANGE
Community base rental income .....	\$186,889	\$179,579	\$7,310	4.1%	\$194,640	\$190,982	\$ 3,658	1.9%
Resort base rental income .....	494	439	55	12.5%	9,146	5,748	3,398	59.1%
Utility and other income .....	18,244	18,786	(542)	(2.9%)	19,684	20,381	(697)	(3.4%)
Property operating revenues .....	205,627	198,804	6,823	3.4%	223,470	217,111	6,359	2.9%
Property operating and maintenance .....	54,240	53,024	1,216	2.3%	62,843	60,807	2,036	3.3%
Real estate taxes .....	16,443	15,271	1,172	7.7%	17,827	16,882	945	5.6%
Property management .....	8,430	8,120	310	3.8%	9,292	8,984	308	3.4%
Property operating expenses .....	79,113	76,415	2,698	3.5%	89,962	86,673	3,289	3.8%
Income from property operations ...	\$126,514	\$122,389	\$4,125	3.4%	\$133,508	\$130,438	\$ 3,070	2.4%
Site and Occupancy Information(1):								
Average total sites .....	41,489	41,428	61	0.1%	44,552	46,243	(1,691)	(3.7%)
Average occupied sites .....	38,642	39,108	(466)	(1.2%)	41,435	43,576	(2,141)	(4.9%)
Occupancy % .....	93.1%	94.4%	(1.3%)	(1.3%)	93.0%	94.2%	(1.2%)	(1.2%)
Monthly base rent per site .....	\$ 403.04	\$ 382.65	\$20.39	5.3%	\$ 397.80	\$ 371.20	\$ 26.61	7.1%
Total sites								
As of December 31, .....	41,588	41,472	116	0.3%	43,906	45,743	(1,837)	(4.0%)
Total occupied sites								
As of December 31, .....	38,399	38,991	(592)	(1.5%)	40,410	42,887	(2,477)	(5.8%)

(1) Site and occupancy information excludes Resort sites and Properties owned through unconsolidated joint ventures as well as the sites of Properties sold during 2002.

Property Operating Revenues

The 4.1% increase in Community base rental income for the Core Portfolio reflects a 5.3% increase in monthly base rent per site coupled with a 1.2% decrease in average occupied sites. The decrease in utility and other income for the Core Portfolio is due primarily to decreases in utility income, which resulted from lower expenses for these items.

Property Operating Expenses

The increase in property operating and maintenance expense for the Core Portfolio is due primarily to increases in property payroll, insurance and other expenses, repair and maintenance and administrative expenses, partially offset by decreased utility expense. The increase in Core Portfolio real estate taxes is generally due to higher property assessments on certain Properties. Property

management expense for the Core Portfolio, which reflects costs of managing the Properties and is estimated based on a percentage of Property operating revenues, increased by 3.8% due to increases in payroll costs and office expenses.

RESULTS OF OPERATIONS (CONTINUED)

Home Sales Operations

The following table summarizes certain financial and statistical data for the Home Sales Operations for the years ended December 31, 2002 and 2001.

(dollars in thousands)	HOME SALES OPERATIONS			
	2002	2001 (Pro forma)	INCREASE/ (DECREASE)	% CHANGE
Gross revenues from new home sales .	\$ 30,618	\$ 32,608	(1,990)	(6.1%)
Cost of new home sales .....	(24,689)	(25,925)	1,236	4.8%
Gross profit from new home sales ...	5,929	6,683	(754)	(11.3%)
Gross revenues from used home sales	2,919	3,631	(712)	(19.6%)
Cost of used home sales .....	(2,494)	(2,561)	67	2.6%
Gross profit from used home sales ..	425	1,070	(645)	(60.3%)
Brokered resale revenues, net .....	1,592	1,723	(131)	(7.6%)
Home selling expenses .....	(7,664)	(8,240)	576	67.0%
Ancillary services revenues, net ...	522	1,092	(570)	(52.2%)
Income from home sales operations ..	\$ 804	\$ 2,328	(1,524)	(65.5%)
HOME SALES VOLUMES:				
New home sales .....	420	485	(65)	(13.4%)
Used home sales .....	182	250	(68)	(27.2%)
Brokered home resales .....	986	1,114	(128)	(11.5%)

Prior to January 1, 2002, the results of operations of RSI were accounted for using the equity method and reported on a single line item called Equity in Income of Affiliates. As a result of the acquisition of RSI (see Note 7), the Company owns and controls RSI and consolidates the financial results of RSI with those of the Company. The pro forma presentation of detailed 2001 amounts is for comparison purposes and has no effect on previously reported net income. For the year ended December 31, 2001, equity in income of affiliates was approximately \$1.8 million and included the \$2.3 million of income from home sales operations presented above as well as \$539,000 of interest income, \$15,000 of corporate expenses and \$1.0 million of interest expense.

New home sales gross profit reflects a 13.4% decrease in sales volume coupled with a 1.1% decrease in the gross margin. The average selling price of new homes increased \$6,000 or 8.7% compared to 2001. Used home sales gross profit reflects a decrease in both volume and gross margin on used home sales. Brokered resale revenues reflects decreased resale volumes. The 6.9% decrease in home selling expenses primarily reflects reductions in payroll and advertising expenses.

Other Income and Expenses

The increase in interest income reflects a decrease in notes receivable offset by an increase in chattel notes receivable acquired through the acquisition of RSI. The decrease in other corporate income primarily reflects

decreased income from unconsolidated joint ventures. The increase in general and administrative expense is due to increases in costs related to operating a public company, increased payroll costs and increased consulting and legal costs. Interest and related amortization decreased due to lower interest rates during the period. The weighted average outstanding debt balances for the years ended December 31, 2002 and 2001 were \$731.8 million and \$713.2 million, respectively. The effective interest rate was 6.8% and 7.0% per annum for the years ended December 31, 2002 and 2001, respectively.

LIQUIDITY AND CAPITAL RESOURCES

LIQUIDITY

As of December 31, 2003, we had \$325.7 million in cash and cash equivalents and \$110.0 million available on our Line of Credit. We expect to meet our short-term liquidity requirements, including distributions, generally through our working capital, net cash provided by operating activities and availability under the Line of Credit. We expect to meet certain long-term liquidity requirements such as scheduled debt maturities, property acquisitions and capital improvements by long-term collateralized and uncollateralized borrowings including borrowings under our Line of Credit and the issuance of debt securities or additional equity securities in the Company, in addition to working capital.

INFLATION

Substantially all of the leases at the Properties allow for monthly or annual rent increases which provide us with the opportunity to achieve increases, where justified by the market, as each lease matures. Such types of leases generally minimize our risks of inflation.

FUNDS FROM OPERATIONS

Funds From Operations ("FFO"), a non-GAAP financial performance measure, was redefined by the National Association of Real Estate Investment Trusts ("NAREIT") in April 2002, as net income (computed in accordance with GAAP), before allocation to minority interests, excluding gains (or losses) from sales of property, plus real estate depreciation and after adjustments for unconsolidated partnerships and joint ventures. The Company computes FFO in accordance with the NAREIT definition, which may differ from the methodology for calculating FFO utilized by other equity REITs and, accordingly, may not be comparable to such other REITs' computations. The Company believes that FFO is useful to investors as a measure of the performance of an equity REIT because, along with cash flows from operating activities, financing activities and investing activities, FFO provides investors an understanding of the ability of the Company to incur and service debt and to make capital expenditures. FFO does not represent cash generated from operating activities in accordance with GAAP and therefore should not be considered an alternative to net income as an indication of the Company's performance or to net cash flows from operating activities as determined by GAAP as a measure of liquidity and is not necessarily indicative of cash available to fund cash needs.

The following table presents a calculation of FFO for the years ended December 31, 2003, 2002 and 2001 (amounts in thousands):

	2003	2002	2001
	-----	-----	-----
COMPUTATION OF FUNDS FROM OPERATIONS:			
Net income available for Common Shares .....	\$ 27,014	\$ 36,445	\$ 32,083
Income allocated to Common OP Units .....	6,474	8,926	8,209
Depreciation on real estate assets and other costs .....	38,034	35,552	34,228
Depreciation expense included in discontinued operations..	135	484	605
Gain on sale of Properties and other .....	(10,826)	(13,014)	(8,168)

Funds from operations .....	\$ 60,831	\$ 68,393	\$ 66,957
Weighted average Common Shares outstanding - diluted .....	28,002	27,632	27,010

ACQUISITIONS AND DISPOSITIONS

During the year ended December 31, 2001, we acquired two Florida Properties for an aggregate purchase price of approximately \$17.3 million and completed the sale of seven properties in Kansas, Missouri and Oklahoma, for a total sale price of approximately \$17.4 million. Also during 2001, we finalized a settlement agreement whereby we received \$10.8 million in proceeds related to the sale of a Property in Indiana.

During the year ended December 31, 2002, we acquired the eleven Properties listed in the table below. The acquisitions were funded with borrowings on our Line of Credit and the assumption of \$47.9 million of mortgage debt, which includes a \$3.0 million mark-to-market adjustment. In addition, we purchased adjacent land and land improvements for several Properties for approximately \$559,000.

DATE ACQUIRED	PROPERTY	LOCATION	TOTAL SITES	PURCHASE PRICE (\$ millions)	DEBT ASSUMED (\$ millions)
March 12, 2002	Mt. Hood Village	Welches, OR	450	\$ 7.2	\$ ---
July 10, 2002	Harbor View Village	New Port Richey, FL	471	15.5	8.1
July 31, 2002	Golden Sun	Apache Junction, AZ	329	6.3	3.1
July 31, 2002	Countryside	Apache Junction, AZ	560	7.5	---
July 31, 2002	Holiday Village	Ormond Beach, FL	301	10.4	7.1
July 31, 2002	Breezy Hill	Pompano Beach, FL	762	20.5	10.5
August 14, 2002	Highland Woods	Pompano Beach, FL	148	3.9	2.5
August 7, 2002	Tropic Winds	Harlingen, TX	531	4.9	---
October 1, 2002	Silk Oak Lodge	Clearwater, FL	180	6.2	3.9
December 18, 2002	Hacienda Village	New Port Richey, FL	519	16.8	10.2
December 31, 2002	Glen Ellen	Clearwater, FL	117	2.4	2.5
TOTALS			4,368	\$101.6	\$47.9

During the year ended 2002, we effectively sold 17 Properties as part of a restructuring of the College Heights Joint Venture discussed hereinafter. In addition, we sold Camelot Acres, a 319 site Property in Burnsville, Minnesota, for approximately \$14.2 million.

During the year ended December 31, 2003, we sold the three Properties listed in the table below. Proceeds from the sales were used to repay amounts on the Company's Line of Credit. Also during the same period, we acquired a parcel of land adjacent to one of our Properties for approximately \$97,000.

DATE SOLD	PROPERTY	LOCATION	TOTAL SITES	DISPOSITION PRICE (\$ millions)	GAIN ON SALE (\$ millions)
June 6, 2003	Independence Hill	Morgantown, WV	203	\$ 3.9	\$ 2.8
June 6, 2003	Brook Gardens	Hamburg, NY	424	17.8	4.1
June 30, 2003	Pheasant Ridge	Mount Airy, MD	101	5.4	3.9
			728	\$27.1	\$10.8

In December, 2003, we acquired three Resort Properties listed in the table below. The acquisitions were funded with monies held in short-term investments. The acquisitions included the assumption of liabilities of approximately \$650,000. Also during 2003, we acquired a parcel of land adjacent to one of our Properties for approximately \$97,000.

DATE ACQUIRED	PROPERTY	LOCATION	TOTAL SITES	PURCHASE PRICE	DEBT ASSUMED
-----	-----	-----	-----	-----	-----
				(\$ millions)	(\$ millions)
December 3, 2003	Toby's	Arcadia, FL	379	\$4.3	\$--
December 15, 2003	Araby Acres	Yuma, AZ	337	5.7	3.2
December 15, 2003	Foothill	Yuma, AZ	180	1.8	1.4

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#### INVESTMENTS IN JOINT VENTURES

Effective September 1, 2002, the Company restructured its investment in Wolverine Property Investment Limited Partnership (the "College Heights Joint Venture" or the "Venture"), a joint venture with Wolverine Investors, LLP. The Venture included 18 Properties with 3,581 sites. The results of operations of the College Heights Joint Venture prior to restructuring were included with the results of the Company due to the Company's voting equity interest and control over the Venture. Pursuant to the restructuring, the Company sold its general partnership interest, sold all of the Company's voting equity interest and reduced the Company's total investment in the College Heights Joint Venture. As consideration for the sale, the Company retained sole ownership of Down Yonder, a 361 site community in Clearwater, Florida, received cash of approximately \$5.2 million and retained preferred limited partnership interests of approximately \$10.3 million, recorded net of a \$2.4 million reserve. The continuing preferred limited partnership interests are accounted for using the equity method and reported as an investment in a joint venture.

#### ACQUISITION OF REALTY SYSTEMS, INC.

On January 1, 2002, the Company purchased all of the common stock of Realty Systems, Inc. ("RSI"). The Company previously owned the non-voting preferred stock of RSI and had notes receivable from RSI which were recorded as an investment in affiliate. The Company purchased the common stock of RSI from Equity Group Investments, Inc., controlled by Samuel Zell, Chairman of the Board of Directors of the Company, for approximately \$675,000. As a result of this acquisition, the Company owns and controls RSI and consolidates the financial results of RSI with those of the Company including \$839,000 of cash from the acquisition on January 1, 2002.

#### CAPITAL IMPROVEMENTS

Capital expenditures for improvements are identified by the Company as recurring capital expenditures ("Recurring CapEx"), site development costs and corporate costs. Recurring CapEx was approximately \$11.9 million and \$13.4 million for the years ended December 31, 2003 and 2002, respectively. Of these expenditures, the Company believes that approximately \$8.0 million or \$155 per site for 2003 and \$7.6 million or \$147 per site for 2002 are non-revenue producing improvements which are necessary in order to increase and/or maintain occupancy levels and maintain competitive market rents for new and renewing residents. Site development costs were approximately \$9.0 million and \$10.4 million for the years ended December 31, 2003 and 2002, respectively, and represent costs to develop expansion sites at certain of the Company's Properties and costs for improvements to sites when a smaller used home is replaced with a larger new home.

#### EQUITY TRANSACTIONS

In order to qualify as a REIT for federal income tax purposes, the Company must distribute 90% or more of its taxable income (excluding capital gains) to its stockholders. The following distributions have been declared and/or paid to common stockholders and minority interests since January 1, 2001.

DISTRIBUTION AMOUNT PER SHARE	FOR THE QUARTER ENDING	STOCKHOLDER RECORD DATE	PAYMENT DATE
\$0.4450	March 31, 2001	March 30, 2001	April 13, 2001
\$0.4450	June 30, 2001	June 29, 2001	July 13, 2001
\$0.4450	September 30, 2001	September 28, 2001	October 12, 2001
\$0.4450	December 31, 2001	December 28, 2001	January 11, 2002
\$0.4750	March 31, 2002	March 29, 2002	April 12, 2002
\$0.4750	June 30, 2002	June 28, 2002	July 12, 2002
\$0.4750	September 30, 2002	September 27, 2002	October 11, 2002
\$0.4750	December 31, 2002	December 27, 2002	January 10, 2003
\$0.4950	March 31, 2003	March 28, 2003	April 11, 2003
\$0.4950	June 30, 2003	June 27, 2003	July 11, 2003
\$0.4950	September 30, 2003	September 26, 2003	October 10, 2003

On December 12, 2003, we declared a one-time special distribution of \$8.00 per share payable to stockholders of record on January 8, 2004. We used proceeds from the \$501 million borrowing in October, 2003 to pay the special distribution on January 16, 2004. The special cash dividend will be reflected on stockholders' 2004 1099-DIV to be issued in January 2005.

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#### EQUITY TRANSACTIONS (CONTINUED)

The Operating Partnership paid distributions of 9.0% per annum on the \$125 million of Series D Cumulative Redeemable Perpetual Preferred Units ("Preferred Units"). Distributions on the Preferred Units were paid annually on the last calendar day of each quarter beginning December 31, 1999. The Company expects to continue to make regular annual distributions and has set its 2004 distribution to common stockholders at \$0.05 per share per annum.

#### MORTGAGES AND CREDIT FACILITIES

On October 17, 2003, we closed 49 mortgage loans collateralized by 51 Properties (the "Recap") providing total proceeds of approximately \$501 million at a weighted average interest rate of 5.84% and with a weighted average maturity of approximately 9 years. Approximately \$170 million of the proceeds were used to repay amounts outstanding on the Company's Line of Credit and Term Loan. Approximately \$225 million was used to pay a special dividend of \$8.00 per share on January 16, 2004. The remaining funds are being held in short-term investments and will be used primarily for investments in 2004.

We have an unsecured Line of Credit with a group of banks (the "Line of Credit") with a total facility of \$110 million, bearing interest at the London Interbank Offered Rate ("LIBOR") plus 1.65% that matures on August 9, 2006. We pay a quarterly fee on the average unused amount of the total facility equal to 0.15% of such amount. In October, 2003, all amounts outstanding on the Line of Credit were repaid with proceeds from the Recap. As of December 31, 2003, \$110 million was available under the Line of Credit. The Line of Credit had a total facility of \$150 million prior to amendment in December, 2003.

We had a \$100 million unsecured term loan (the "Term Loan") with a group of banks with interest only payable monthly at LIBOR plus 1.375%. In October, 2003, we paid off the Term Loan with proceeds from the Recap.

On October 29, 2001, we entered into an interest rate swap agreement (the "2001 Swap"), effectively fixing LIBOR on \$100 million of our floating rate debt at approximately 3.7% per annum for the period October 2001 through August 2004. The terms of the 2001 Swap required monthly settlements on the same dates interest payments were due on the debt. In accordance with SFAS No. 133, the

2001 Swap was reflected at market value. In October, 2003, we unwound the 2001 Swap at a cost of approximately \$3 million, which is included in interest and related amortization in 2003 in the accompanying Consolidated Statements of Operations.

On April 17, 2003, we entered into an agreement to refinance and increase the Bay Indies Mortgage from approximately \$21.9 million to \$45 million. Under the new agreement, the Bay Indies Mortgage bears interest at 5.69% per annum, amortizes over 25 years and matures April 17, 2013. The net proceeds were used to pay down the Company's Line of Credit in April, 2003. Also during the year ended December 31, 2003, mortgage notes payable on four other Properties were repaid totaling approximately \$23.5 million using proceeds from borrowings on the Company's Line of Credit.

During the year ended December 31, 2002, as part of the purchase of RSI, in a non-cash transaction, we assumed a \$12.5 million note payable ("Conseco Financing Note"), collateralized by manufactured home inventory. The Conseco Financing Note was repaid at a discount during 2002 using proceeds from our Line of Credit. In addition, we repaid a maturing mortgage note in the amount of \$1.1 million and \$2.1 million of other unsecured notes payable using proceeds from our Line of Credit.

During the year ended December 31, 2001, we repaid three maturing mortgages in the aggregate amount of \$12.1 million using proceeds from our Line of Credit. In addition, we entered into a \$50.0 million mortgage note (the "Stagecoach Mortgage") collateralized by 7 Properties beneficially owned by MHC Stagecoach, L.L.C. The Stagecoach Mortgage bears interest at a rate of 6.98% per annum, amortizes beginning September 1, 2001 over 10 years and matures August 31, 2011. Proceeds from the financing were used to reduce borrowings on the Line of Credit by \$37.9 million.

Certain of our mortgage and credit agreements contain covenants and restrictions including restrictions as to the ratio of secured or unsecured debt versus encumbered or unencumbered assets, the ratio of fixed charges-to-earnings before interest, taxes, depreciation and amortization ("EBITDA"), limitations on certain holdings and other restrictions.

MORTGAGES AND CREDIT FACILITIES (CONTINUED)

As of December 31, 2003, we were subject to certain contractual payment obligations as described in the table below (dollars in thousands). We are not subject to capital lease obligations or unconditional purchase obligations as of December 31, 2003.

Contractual Obligations	Total	2004	2005	2006	2007	2008	Thereafter
-----	----	----	----	----	----	----	-----
Long Term Debt(1).....	\$1,076,279	---	\$6,478	\$17,409	\$265,113	\$200,908	\$586,371
Weighted average interest rates.....	6.4%	---	7.8%	7.4%	7.0%	5.6%	6.6%

(1) Balance excludes net premiums and discounts of \$17.

In addition, the Company leases land under non-cancelable operating leases at certain of the Properties expiring in various years from 2022 to 2031 with terms which require twelve equal payments per year plus additional rents calculated as a percentage of gross revenues. For the years ended December 31, 2003, 2002 and 2001, ground lease rent was approximately \$1.6 million per year. Minimum future rental payments under the ground leases are approximately \$1.6 million for each of the next five years and approximately \$26.3 million thereafter.

SUBSEQUENT EVENTS

Since December 31, 2003, we invested in 30 Properties as listed in the table below. The combined investment in these 30 properties was approximately

\$137.6 million and was funded with monies held in short-term investments and additional debt. (amounts in millions, except for total sites)

CLOSING DATE	PROPERTY	LOCATION	TOTAL SITES	PURCHASE PRICE	DEBT	NET EQUITY
ACQUISITIONS:						
January 15, 2004	O'Connell's(a)	Amboy, IL	668	\$ 6.6	\$ 5.0	\$1.6
January 30, 2004	Spring Gulch(b)	New Holland, PA	420	6.0	4.8	1.2
February 3, 2004	Paradise(c)	Mesa, AZ	950	25.0	20.0	5.0
February 18, 2004	Twin Lakes(d)	Chocowinity, NC	400	5.2	3.8	1.4
February 19, 2004	Lakeside(e)	New Carlisle, IN	95	1.7	---	1.7
February 5, 2004	Shangri La	Largo, FL	160	(f)	4.5	(f)
February 5, 2004	Terra Cela	Palmetto, FL	203	(f)	2.6	(f)
February 5, 2004	Southernaire	Mt. Dora, FL	134	(f)	2.1	(f)
February 5, 2004	Sixth Avenue	Zephyrhills, FL	140	(f)	2.3	(f)
February 5, 2004	Suni Sands	Yuma, AZ	336	(f)	3.2	(f)
February 5, 2004	Topic's	Spring Hill, FL	230	(f)	2.2	(f)
February 5, 2004	Coachwood Colony	Leesburg, FL	200	(f)	4.3	(f)
February 5, 2004	Waterway	Cedar Point, NC	336	(f)	6.3	(f)
February 5, 2004	Desert Paradise	Yuma, AZ	260	(f)	1.5	(f)
February 5, 2004	Goose Creek	Newport, NC	598	(f)	12.6	(f)
MEZZANINE INVESTMENTS(g):						
February 3, 2004	Fiesta Grande I & II	Casa Grande, AZ	767	---	---	3.7
February 3, 2004	Tropical Palms	North Ft. Myers, FL	297	---	---	1.9
February 3, 2004	Island Vista Estates	North Ft. Myers, FL	617	---	---	4.6
February 3, 2004	Foothills West	Casa Grande, AZ	188	---	---	1.5
February 3, 2004	Capri	Yuma, AZ	300	---	---	2.1
February 3, 2004	Casita Verde	Casa Grande, AZ	192	---	---	1.2
February 3, 2004	Rambler's Rest	Venice, FL	647	---	---	6.2
February 3, 2004	Venture In	Show Low, AZ	389	---	---	2.4
February 3, 2004	Scenic	Asheville, NC	224	---	---	1.2
February 3, 2004	Clerbrook	Clermont, FL	1,255	---	---	3.9
February 3, 2004	Inlet Oaks	Murrells Inlet, SC	178	---	---	1.0
JOINT VENTURES(h):						
December 18, 2003	Lake Myers	Mocksville, NC	425	---	---	0.4
January 21, 2004	Pine Haven	Ocean View, NJ	625	---	---	0.4
January 27, 2004	Twin Mills	Howe, IN	501	---	---	0.2
February 10, 2004	Plymouth Rock	Elkhart Lake, WI	609	---	---	0.4

- (a) Property was purchased from O'Connell's Holding Corp. and O'Connell's, Inc.
- (b) Property was purchased from Spring Gulch, Inc.
- (c) Property was purchased from PRVR Limited Partnership.
- (d) Property was purchased from Twin Lakes Land, LLC and Twin Lakes Camping Resort, LLC.
- (e) Property was purchased from Don-Bar Family Limited Partnership.
- (f) The portfolio was acquired for a total purchase price of \$62 million and \$20.4 million of net equity. The transaction was funded partially through loans obtained on the individual properties as shown in the table.
- (g) On February 3, 2004, the Company invested approximately \$29.7 million in preferred equity in six entities controlled by Diversified Investments, Inc. ("Diversified"). In addition, the Company has invested approximately \$1.4 million in the Diversified entities managing these properties.
- (h) The Company invested approximately \$1.4 million with Diversified in four separate entities, each controlling a Property.

In addition, on February 17, 2004, we tendered payment of \$69 million cash to acquire a 93% equity interest in entities that own and operate 28 vacation resort properties, containing 11,357 sites. Twenty of the properties are located in Florida, six in Texas, and two in California. The acquisition was funded with monies held in short-term investments and \$50 million drawn from the Company's line of credit.

Beginning in 1996, a series of partnerships were formed between "NHC" entities and "PAMI" entities. The PAMI entities have sued for specific performance in Chancery Court in Delaware seeking to acquire the NHC entities' interests. The NHC entities have filed a counter-suit, and have asked the judge to schedule a hearing to address the matter within thirty days. Under the terms and conditions of the partnership agreements, \$69 million was paid to acquire the PAMI entities' interests. Principals of the NHC entities will continue to operate the properties and maintain an equity position in the new entity. The existing dispute is related to the PAMI entities' desire to liquidate their investments. While the possibility of additional litigation and its attendant risks remain, we believe that providing liquidity to the NHC entities to acquire the PAMI interests may assist in resolving the dispute.



ITEM 7a. QUANTITATIVE AND QUALITATIVE DISCLOSURE OF MARKET RISK

Our earnings are affected by changes in interest rates, since a portion of our outstanding indebtedness is at variable rates based on LIBOR. Our Line of Credit (\$110 million outstanding at December 31, 2003) bears interest at LIBOR plus 1.65%, per annum. If LIBOR increased/decreased by 1.0% during the year ended December 31, 2003, interest expense would have increased/decreased by approximately \$1.3 million based on the average balance outstanding under the Company's Line of Credit during the period.

On October 29, 2001, we entered into the 2001 Swap, effectively fixing the LIBOR rate on \$100 million of our floating rate debt at approximately 3.7% per annum for the period October 2001 through August 2004. The terms of the 2001 Swap required monthly settlements on the same dates interest payments were due on the debt. In the fourth quarter of 2003, we unwound the 2001 Swap for a cost of approximately \$3 million. Effective January 1, 2001, the Company adopted Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS No. 133") and its amendments, SFAS No. 137 and SFAS No. 138. In accordance with SFAS No. 133, the interest rate swap was reflected at market value. We believed the 2001 Swap was a perfectly effective cash flow hedge, under SFAS No. 133, and there would be no effect on net income as a result of the mark-to-market adjustment. Mark-to-market changes in the value of the 2001 Swap prior to its payoff were included in other comprehensive income.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

See Index to Combined Financial Statements on page F-1 of this Form 10-K.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES

The Company's management, with the participation of the Company's Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of the Company's disclosure controls and procedures as of December 31, 2003. Based on that evaluation, the Company's Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective as of December 31, 2003. There were no material changes in the Company's internal control over financial reporting during the fourth quarter 2003.

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PART III

ITEMS 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

The information required to be set forth herein pursuant to Item 401 and Item 405 of Regulation S-K is contained under the captions "Election of Directors," "Election of Directors - Committees of the Board; Meetings" and "Section 16(a) Beneficial Ownership Reporting Compliance" in the Company's definitive proxy statement for the Company's 2004 Annual Meeting of Shareholders to be held on May 4, 2004 (the "2004 Proxy Statement") and such information is incorporated herein by reference.

In addition, the information that is included under the caption "Election of Directors - Corporate Governance" in the 2004 Proxy Statement regarding the Company's written Guidelines on Corporate Governance and the Company's Business

Ethics and Conduct Policy is incorporated herein by reference.

ITEMS 11, 12, 13 AND 14.

EXECUTIVE COMPENSATION, SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND  
MANAGEMENT, CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND PRINCIPAL  
ACCOUNTANT FEES AND SERVICES

The information required by Item 11, Item 12, Item 13 and Item 14 will be  
contained in the 2004 Proxy Statement, and thus this Part has been omitted in  
accordance with General Instruction G(3) to Form 10-K.

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PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENTS, SCHEDULES AND REPORTS ON FORM 8-K

(a)

(1&2) See Index to Financial Statements and Schedules on page F-1 of  
this Form 10-K.

(3) Exhibits:

- 2(a) Admission Agreement between Equity Financial and  
Management Co., Manufactured Home Communities, Inc. and  
MHC Operating Partnership
- 3.1(a) Articles of Incorporation of Manufactured Home  
Communities, Inc.
- 3.2(a) Articles of Amendment and Restatement of Manufactured Home  
Communities, Inc.
- 3.3(g) Amended Bylaws of Manufactured Home Communities, Inc.
- 4 Not applicable
- 9 Not applicable
- 10.1(a) Amended and Restated Agreement of Limited Partnership of  
MHC Operating Limited Partnership
- 10.2(a) Agreement of Limited Partnership of MHC Financing Limited  
Partnership
- 10.3(a) Agreement of Limited Partnership of MHC Management Limited  
Partnership
- 10.4(a) Property Management and Leasing Agreement between MHC  
Financing Limited Partnership and MHC Management  
Limited Partnership
- 10.5(a) Property Management and Leasing Agreement between MHC  
Operating Limited Partnership and MHC Management  
Limited Partnership
- 10.6(a) Services Agreement between Realty Systems, Inc. and MHC  
Management Limited Partnership
- 10.7(a) Rate Protection Agreement
- 10.8(a) Revolving Credit Note made by Realty Systems, Inc. to  
Equity Financial and Management Co.
- 10.9(a) Assignment to MHC Operating Limited Partnership of  
Revolving Credit Note made by Realty Systems, Inc. to  
Equity Financial and Management Co.
- 10.10(a) Stock Option Plan
- 10.11A(a) Indenture of Mortgage, Deed of Trust, Security Agreement,  
Financing Statement, Fixture Filing and Assignment of  
Rents
- 10.11B(a) Promissory Note
- 10.11C(a) Assignment of Loan Documents
- 10.11D(a) Assignment of Leases, Rents and Security Deposits
- 10.11E(a) Swap Agreement Pledge and Security Agreement
- 10.11F(a) Cash Collateral Account Security, Pledge and Assignment  
Agreement
- 10.11G(a) Assignment of Property Management and Leasing Agreement
- 10.11H(a) Trust Agreement
- 10.12(a) Form of Noncompetition Agreement

- 10.13(a) Form of Noncompetition Agreement
- 10.13A(a) Form of Noncompetition Agreement
- 10.14(a) General Electric Credit Corporation Commitment Letter
- 10.15(a) Administrative Services Agreement between Realty Systems, Inc. and Equity Group Investments, Inc.
- 10.16(a) Registration Rights and Lock-Up Agreement with the Company (the Original Owners, EF&M, Directors, Officers and Employees)
- 10.17(a) Administrative Services Agreement between the Company and Equity Group Investments, Inc.
- 10.18(a) Form of Subscription Agreement between the Company and certain officers and other individuals dated March 3, 1993
- 10.19(a) Form of Secured Promissory Note payable to the Company by certain officers dated March 3, 1993
- 10.20(a) Form of Pledge Agreement between the Company and certain officers dated March 3, 1993
- 10.21(a) Loan and Security Agreement between Realty Systems, Inc. and MHC Operating Limited Partnership
- 10.22(a) Equity and Registration Rights Agreement with the Company (the GM Trusts)
- 10.23(b) Agreement of Limited Partnership of MHC Lending Limited Partnership
- 10.23(c) Agreement of Limited Partnership of MHC-Bay Indies Financing Limited Partnership
- 10.24(c) Agreement of Limited Partnership of MHC-De Anza Financing Limited Partnership
- 10.25(c) Agreement of Limited Partnership of MHC-DAG Management Limited Partnership
- 10.26(d) Amendment No. 2 to MHC Operating Limited Partnership Amended and Restated Partnership Agreement dated February 15, 1996
- 10.27(d) Form of Subscription Agreement between the Company and certain members of management of the Company dated January 2, 1996
- 10.28(d) Form of Secured Promissory Note payable to the Company by certain members of management of the Company dated January 2, 1996

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ITEM 15. EXHIBITS, FINANCIAL STATEMENTS, SCHEDULES AND REPORTS ON FORM 8-K  
(CONTINUED)

- 10.29(d) Form of Pledge Agreement between the Company and certain members of management of the Company dated January 2, 1996
- 10.30(e) Second Amended and Restated MHC Operating Limited Partnership Agreement of Limited Partnership, dated as of March 15, 1996
- 10.31(f) Agreement of Limited Partnership of MHC Financing Limited Partnership Two
- 10.32(g) \$265,000,000 Mortgage Note dated December 12, 1997
- 10.33(g) Second Amended and Restated Credit Agreement (Revolving Facility) between the Company, MHC Operating Limited Partnership, and certain lenders and agents, dated April 28, 1998
- 10.34(g) First Amendment to Second Amended and Restated Credit Agreement (Revolving Facility) between the Company, MHC Operating Limited Partnership, and certain lenders and agents, dated December 18, 1998
- 10.35(h) Second Amendment to Second Amended and Restated Credit Agreement (Revolving Facility) between the Company, MHC Operating Limited Partnership, and certain lenders and agents, dated August 9, 2000
- 10.36(g) Amended and Restated Credit Agreement (Term Loan) between the Company, MHC Operating Limited Partnership, and certain lenders and agent, dated April 28, 1998
- 10.36(h) First Amendment to Amended and Restated Credit Agreement (Term Loan) between the Company, MHC Operating Limited

- Partnership, and certain lenders and agent, dated November 21, 2000
- 10.36(g) Letter Agreement between the Company and Bank of America National Trust and Savings Association confirming the \$100 million swap transaction, dated July 11, 1995
- 10.39(h) \$110,000,000 Amended, Restated and Consolidated Promissory Note dated June 28, 2000
- 10.40(h) \$15,750,000 Promissory Note Secured by Leasehold Deed of Trust dated July 13, 2000
- 10.41(i) Credit Agreement (Term Loan) between the Company, MHC Operating Limited Partnership and certain lenders and agents dated February 9, 2002.
- 10.42(i) Third Amendment to Second Amended and Restated Credit Agreement (Revolving Facility) between the Company, MHC Operating Limited Partnership, and certain lenders and agents, dated February 9, 2002
- 10.43(i) \$50,000,000 Promissory Note secured by Leasehold Deeds of Trust (Stagecoach Mortgage) dated December 2, 2001.
- 10.44(j) Fourth Amendment to the Second Amended and Restated Credit Agreement (Revolving Facility) between the Company, MHC Operating Limited Partnership, and certain lenders and agents, dated December 11, 2003.
- 10.45(j) Loan Agreement dated October 17, 2003 between MHC Sunrise Heights, L.L.C., as Borrower, and Bank of America, N.A., as Lender.
- 10.45.1(j) Schedule identifying substantially identical agreements to Exhibit No. 10.45.
- 10.46(j) Form of Loan Agreement dated October 17, 2003 between MHC Countryside L.L.C., as Borrower, and Bank of America, N.A., as Lender.
- 10.46.1(j) Schedule identifying substantially identical agreements to Exhibit No. 10.46.
- 10.47(j) Form of Loan Agreement dated October 17, 2003 between MHC Creekside L.L.C., as Borrower, and Bank of America, N.A., as Lender.
- 10.47.1(j) Schedule identifying substantially identical agreements to Exhibit No. 10.47.
- 10.48(j) Form of Loan Agreement dated October 17, 2003 between MHC Golf Vista Estates L.L.C., as Borrowers, and Bank of America, N.A., as Lender.
- 10.48.1(j) Schedule identifying substantially identical agreements to Exhibit No. 10.48.
- 11 Not applicable
- 12(j) Computation of Ratio of Earnings to Fixed Charges
- 13 Not applicable
- 14 Not applicable
- 15 Not applicable
- 16 Not applicable
- 17 Not applicable
- 18 Not applicable
- 21(j) Subsidiaries of the registrant
- 22 Not applicable
- 23(j) Consent of Independent Auditors
- 24.1(j) Power of Attorney for Joseph B. McAdams dated March 2, 2004
- 24.2(j) Power of Attorney for Howard Walker dated March 2, 2004
- 24.3(j) Power of Attorney for Thomas E. Dobrowski dated March 1, 2004
- 24.4(j) Power of Attorney for Gary Waterman dated March 2, 2004
- 24.5(j) Power of Attorney for Donald S. Chisholm dated March 2, 2004
- 24.6(j) Power of Attorney for David A. Helfand dated March 2, 2004

- 31.2(j) Section 302 of the Sarbanes-Oxley Act Of 2002  
Certification of Chief Executive Officer Pursuant To  
Section 302 of the Sarbanes-Oxley Act Of 2002
- 32.1(j) Certification of Chief Financial Officer Pursuant to 18  
U.S.C. Section 1350
- 32.2(j) Certification of Chief Executive Officer Pursuant to 18  
U.S.C. Section 1350

- (a) Included as an exhibit to the Company's Form S-11 Registration Statement, File No. 33-55994, and incorporated herein by reference.
- (b) Included as an exhibit to the Company's Report on Form 10-K dated December 31, 1993, and incorporated herein by reference.
- (c) Included as an exhibit to the Company's Report on Form 10-K dated December 31, 1994, and incorporated herein by reference.
- (d) Included as an exhibit to the Company's Report on Form 10-Q for the quarter ended March 31, 1996, and incorporated herein by reference.
- (e) Included as an exhibit to the Company's Report on Form 10-Q for the quarter ended June 30, 1996, and incorporated herein by reference.
- (f) Included as an exhibit to the Company's Report on Form 10-K dated December 31, 1997, and incorporated herein by reference.
- (g) Included as an exhibit to the Company's Form S-3 Registration Statement, File No. 333-90813, and incorporated herein by reference.
- (h) Included as an exhibit to the Company's Report on Form 10-K dated December 31, 2000, and incorporated herein by reference.
- (i) Included as an exhibit to the Company's Report on Form 10-K dated December 31, 2002, and incorporated herein by reference.
- (j) Filed herewith.

(b) Reports on Form 8-K:

Form 8-K dated and filed October 21, 2003, relating to Item 7 - "Financial Statements and Exhibits" and Item 12 - "Disclosure of Results of Operations and Financial Condition" regarding release of 3rd Quarter 2003 results of operations and financial condition.

Form 8-K dated and filed December 12, 2003, relating to Item 5 - "Other Events and Regulation FD Disclosure" regarding declaration of a special dividend.

Form 8-K dated and filed December 16, 2003, relating to Item 5 - "Other Events and Regulation FD Disclosure" regarding the tax treatment of special dividend.

(c) Exhibits:

See Item 14 (a) (3) above.

(d) Financial Statement Schedules:

See Index to Financial Statements attached hereto on page F-1 of this Form 10-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

MANUFACTURED HOME COMMUNITIES, INC.,  
a Maryland corporation

Date: March 10, 2004  
-----

By: /s/ Thomas P. Heneghan  
-----

Thomas P. Heneghan  
President and Chief Executive Officer  
(Principal Executive Officer)

Date: March 10, 2004  
-----

By: /s/ Michael B. Berman  
-----

Michael B. Berman  
Vice President, Treasurer  
and Chief Financial Officer  
(Principal Financial Officer  
and Principal Accounting Officer)

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MANUFACTURED HOME COMMUNITIES, INC. - SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Name	Title	Date
/s/ Thomas P. Heneghan ----- Thomas P. Heneghan	President and Chief Executive Officer  *Attorney-in-Fact	  March 10, 2004 -----
/s/ Michael B. Berman ----- Michael B. Berman	Vice President, Treasurer and Chief Financial Officer  *Attorney-in-Fact	  March 10, 2004 -----
/s/ Samuel Zell ----- Samuel Zell	Chairman of the Board	  March 10, 2004 -----
/s/ Sheli Z. Rosenberg ----- Sheli Z. Rosenberg	Director	  March 10, 2004 -----
*David A. Helfand ----- David A. Helfand	Director	  March 10, 2004 -----
*Donald S. Chisholm ----- Donald S. Chisholm	Director	  March 10, 2004 -----
*Thomas E. Dobrowski ----- Thomas E. Dobrowski	Director	  March 10, 2004 -----
*Howard Walker ----- Howard Walker	Director	  March 10, 2004 -----
*Joseph B. McAdams ----- Joseph B. McAdams	Director	  March 10, 2004 -----

INDEX TO FINANCIAL STATEMENTS

MANUFACTURED HOME COMMUNITIES, INC.

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Certain schedules have been omitted as they are not applicable to the Company.

F-1

Report of Independent Auditors

To the Board of Directors of  
Manufactured Home Communities, Inc.

We have audited the accompanying consolidated balance sheets of Manufactured Home Communities, Inc. as of December 31, 2003 and 2002, and the related consolidated statements of operations, other comprehensive income, changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2003. We have also audited the related financial statement schedules listed in the index at Item 15(a). These financial statements and schedules are the responsibility of the management of Manufactured Home Communities, Inc. Our responsibility is to express an opinion on these financial statements and schedules based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Manufactured Home Communities, Inc. at December 31, 2003 and 2002, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2003, in conformity with accounting principles generally accepted in the United States. Also, in our opinion, the related financial statement schedules, when considered in relation to the basic consolidated financial statements taken as a whole, present fairly, in all material respects the information set forth therein.

As discussed in Note 2 to the consolidated financial statements, in 2003 Manufactured Home Communities, Inc. changed its method of accounting for stock-based employee compensation. In addition, in 2002 Manufactured Home Communities, Inc. changed its method of accounting for discontinued operations.

ERNST & YOUNG LLP

Chicago, Illinois  
 January 27, 2004, except for Note 18  
 as to which the date is February 19, 2004 and  
 Note 17 as to which the date is February 24, 2004

F-2

MANUFACTURED HOME COMMUNITIES, INC.  
 CONSOLIDATED BALANCE SHEETS  
 AS OF DECEMBER 31, 2003 AND 2002  
 (AMOUNTS IN THOUSANDS EXCEPT SHARE DATA)

	DECEMBER 31, 2003	DECEMBER 31, 2002
	-----	-----
<b>ASSETS</b>		
Investment in real estate:		
Land .....	\$ 282,803	\$ 284,219
Land improvements .....	911,176	893,839
Buildings and other depreciable property .....	121,117	117,949
	-----	-----
	1,315,096	1,296,007
Accumulated depreciation .....	(272,497)	(238,098)
	-----	-----
Net investment in real estate .....	1,042,599	1,057,909
Cash and cash equivalents .....	325,740	7,270
Notes receivable .....	11,551	10,044
	-----	-----
Investment in joint ventures .....	18,828	19,634
Rents receivable, net .....	2,385	1,735
Deferred financing costs, net .....	14,164	5,030
Inventory .....	31,604	33,638
Prepaid expenses and other assets .....	27,044	27,590
	-----	-----
Total assets .....	\$1,473,915	\$1,162,850
	=====	=====
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Liabilities:		
Mortgage notes payable .....	\$1,076,183	\$ 575,370
Unsecured term loan .....	--	100,000
Unsecured line of credit .....	--	84,750
Other notes payable .....	113	113
Accounts payable and accrued expenses .....	27,815	31,010
Accrued interest payable .....	5,978	6,415
Rents received in advance and security deposits .....	6,616	5,966
Distributions payable .....	224,696	13,106
	-----	-----
Total liabilities .....	1,341,401	816,730
Commitments and contingencies		
Minority interest - Common OP Units and other .....	1,716	43,501
Minority interest - Perpetual Preferred OP Units .....	125,000	125,000
Stockholders' equity:		
Preferred stock, \$.01 par value		
10,000,000 shares authorized; none issued .....	---	---
Common stock, \$.01 par value		
50,000,000 shares authorized; 22,563,348 and 22,093,240		
shares issued and outstanding for 2003 and 2002, respectively...	222	218
Paid-in capital .....	263,066	256,394
Deferred compensation .....	(494)	(3,069)
Employee notes .....	--	(2,713)



Distributions in excess of accumulated earnings .....	(256,996)	(68,713)
Accumulated other comprehensive (loss) income .....	--	(4,498)
	-----	-----
Total stockholders' equity .....	5,798	177,619
	-----	-----
Total liabilities and stockholders' equity .....	\$1,473,915	\$1,162,850
	=====	=====

The accompanying notes are an integral part of the financial statements

F-3

MANUFACTURED HOME COMMUNITIES, INC.  
CONSOLIDATED STATEMENTS OF OPERATIONS  
FOR THE YEARS ENDED DECEMBER 31, 2003, 2002 AND 2001  
(AMOUNTS IN THOUSANDS EXCEPT PER SHARE DATA)

	2003	2002	2001
	-----	-----	-----
PROPERTY OPERATIONS:			
Community base rental income .....	\$ 196,919	\$194,640	\$190,982
Resort base rental income .....	11,780	9,146	5,748
Utility and other income .....	20,150	19,684	20,381
	-----	-----	-----
Property operating revenues .....	228,849	223,470	217,111
	-----	-----	-----
Property operating and maintenance .....	64,996	62,843	60,807
Real estate taxes .....	18,917	17,827	16,882
Property management .....	9,373	9,292	8,984
	-----	-----	-----
Property operating expenses .....	93,286	89,962	86,673
	-----	-----	-----
Income from property operations .....	135,563	133,508	130,438
HOME SALES OPERATIONS:			
Gross revenues from inventory home sales .....	36,606	33,537	---
Cost of inventory home sales .....	(31,767)	(27,183)	---
	-----	-----	-----
Gross profit from inventory home sales .....	4,839	6,354	---
Brokered resale revenues, net .....	1,724	1,592	---
Home selling expenses .....	(7,360)	(7,664)	---
Ancillary services revenues, net .....	216	522	---
	-----	-----	-----
Income (loss) from home sales operations .....	(581)	804	---
OTHER INCOME AND EXPENSES:			
Interest income .....	1,695	967	639
Equity in income of affiliates .....	---	---	1,811
Equity in income of unconsolidated joint ventures .....	2,065	1,277	1,353
General and administrative .....	(8,060)	(8,192)	(6,687)
Interest and related amortization .....	(58,402)	(50,729)	(51,305)
Depreciation on corporate assets .....	(1,240)	(1,277)	(1,243)
Depreciation on real estate assets and other costs .....	(38,034)	(35,552)	(34,228)
Gain on sale of properties and other .....	---	---	8,168
	-----	-----	-----
Total other income and expenses .....	(101,976)	(93,506)	(81,492)
MINORITY INTERESTS:			
(Income) allocated to Common OP Units .....	(4,330)	(5,848)	(7,688)
(Income) allocated to Perpetual Preferred OP Units .....	(11,252)	(11,252)	(11,252)
	-----	-----	-----
Income from continuing operations .....	17,424	23,706	30,006
DISCONTINUED OPERATIONS:			
Discontinued operations .....	1,043	3,287	3,203
Depreciation on discontinued operations .....	(135)	(484)	(605)
Gain on sale of properties and other .....	10,826	13,014	---
Minority interests on discontinued operations .....	(2,144)	(3,078)	(521)
	-----	-----	-----
Income from discontinued operations .....	9,590	12,739	2,077
	-----	-----	-----
NET INCOME AVAILABLE FOR COMMON SHARES .....	\$ 27,014	\$ 36,445	\$ 32,083
	=====	=====	=====

The accompanying notes are an integral part of the financial statements

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MANUFACTURED HOME COMMUNITIES, INC.  
CONSOLIDATED STATEMENTS OF OPERATIONS  
FOR THE YEARS ENDED DECEMBER 31, 2003, 2002 AND 2001  
(AMOUNTS IN THOUSANDS, EXCEPT PER SHARE DATA)

	2003 -----	2002 -----	2001 -----
<b>EARNINGS PER COMMON SHARE - BASIC:</b>			
Income from continuing operations .....	\$ .79	\$ 1.10	\$ 1.43
	=====	=====	=====
Income from discontinued operations .....	\$ .43	\$ .59	\$ .10
	=====	=====	=====
Net income available for Common Shares .....	\$ 1.22	\$ 1.69	\$ 1.53
	=====	=====	=====
<b>EARNINGS PER COMMON SHARE - FULLY DILUTED:</b>			
Income from continuing operations .....	\$ .78	\$ 1.07	\$ 1.40
	=====	=====	=====
Income from discontinued operations .....	\$ .42	\$ .57	\$ .09
	=====	=====	=====
Net income available for Common Shares .....	\$ 1.20	\$ 1.64	\$ 1.49
	=====	=====	=====
Distributions declared per Common Shares outstanding ...	\$ 9.485	\$ 1.90	\$ 1.78
	=====	=====	=====
Tax status of Common Shares distributions paid during the year:			
Ordinary income .....	\$ .68	\$ 1.50	\$ 1.31
	=====	=====	=====
Long-term capital gain .....	\$ .57	\$---	\$---
	=====	=====	=====
Unrecaptured section 1250 gain .....	\$ .16	\$---	\$---
	=====	=====	=====
Return of capital .....	\$ .55	\$ 0.37	\$ 0.44
	=====	=====	=====
Weighted average Common Shares outstanding - basic .....	22,077	21,617	21,036
	=====	=====	=====
Weighted average Common Shares outstanding - fully diluted	28,002	27,632	27,010
	=====	=====	=====

MANUFACTURED HOME COMMUNITIES, INC.  
CONSOLIDATED STATEMENTS OF OTHER COMPREHENSIVE INCOME  
FOR THE YEARS ENDED DECEMBER 31, 2003, 2002 AND 2001  
(AMOUNTS IN THOUSANDS)

	2003 -----	2002 -----	2001 -----
Net income available for Common Shares .....	\$27,014	\$ 36,445	\$32,083
Net unrealized holding gains (losses) on derivative instruments .....	4,498	(4,987)	489
	-----	-----	-----
Net other comprehensive income available for Common Shares	\$31,512	\$ 31,458	\$32,572
	=====	=====	=====

The accompanying notes are an integral part of the financial statements

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MANUFACTURED HOME COMMUNITIES, INC.  
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY  
FOR THE YEARS ENDED DECEMBER 31, 2003, 2002 AND 2001  
(AMOUNTS IN THOUSANDS)

	2003 -----	2002 -----	2001 -----
PREFERRED STOCK, \$.01 PAR VALUE .....	\$ ---	\$ ---	\$ ---
	=====	=====	=====
COMMON STOCK, \$.01 PAR VALUE			
Balance, beginning of year .....	\$ 218	\$ 215	\$ 210

Issuance of Common Stock through restricted stock grants .....	---	1	1
Exercise of options .....	4	2	4
	-----	-----	-----
Balance, end of year .....	\$ 222	\$ 218	\$ 215
	=====	=====	=====
PAID - IN CAPITAL			
Balance, beginning of year .....	\$ 256,394	\$ 245,827	\$ 235,681
Issuance of Common Stock for employee notes .....	---	---	---
Conversion of OP Units to Common Stock .....	343	227	599
Issuance of Common Stock through exercise of options .....	6,323	5,782	7,743
Issuance of Common Stock through restricted stock grants .....	---	2,709	1,627
Issuance of Common Stock through employee stock purchase plan ....	3,254	2,512	2,365
Compensation expense related to stock options and restricted stock	611	---	---
Transition adjustment - FAS 123 .....	(1,047)	---	---
Adjustment for Common OP Unitholders			
in the Operating Partnership .....	(2,812)	(663)	(2,188)
	-----	-----	-----
Balance, end of year .....	\$ 263,066	\$ 256,394	\$ 245,827
	=====	=====	=====
DEFERRED COMPENSATION			
Balance, beginning of year .....	\$ (3,069)	\$ (4,062)	\$ (5,969)
Issuance of Common Stock through restricted stock grants .....	---	(2,709)	(1,628)
Transition adjustment - FAS 123 .....	1,047	--	--
Recognition of deferred compensation expense .....	1,528	3,702	3,535
	-----	-----	-----
Balance, end of year .....	\$ (494)	\$ (3,069)	\$ (4,062)
	=====	=====	=====
EMPLOYEE NOTES			
Balance, beginning of year .....	\$ (2,713)	\$ (3,841)	\$ (4,205)
Principal payments .....	2,713	1,128	364
	-----	-----	-----
Balance, end of year .....	\$ --	\$ (2,713)	\$ (3,841)
	=====	=====	=====
DISTRIBUTIONS IN EXCESS OF ACCUMULATED COMPREHENSIVE EARNINGS			
Balance, beginning of year .....	\$ (73,211)	\$ (62,989)	\$ (57,622)
Net income .....	27,014	36,445	32,083
Other comprehensive income:			
Unrealized holding (losses) gains on derivative instruments ....	4,498	(4,987)	489
	-----	-----	-----
Comprehensive income .....	31,512	31,458	32,572
	-----	-----	-----
Distributions .....	(215,296)	(41,680)	(37,939)
	-----	-----	-----
Balance, end of year .....	\$ (256,995)	\$ (73,211)	\$ (62,989)
	=====	=====	=====

The accompanying notes are an integral part of the financial statements

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MANUFACTURED HOME COMMUNITIES, INC.  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED DECEMBER 31, 2003, 2002 AND 2001  
(AMOUNTS IN THOUSANDS)

	2003	2002	2001
	-----	-----	-----
CASH FLOWS FROM OPERATING ACTIVITIES			
Net income .....	\$ 27,014	\$ 36,445	\$ 32,083
Adjustments to reconcile net income to cash provided by operating activities:			
Income allocated to minority interests .....	17,726	20,178	19,461
Gain on sale of Properties and other .....	(10,826)	(13,014)	(8,168)
Depreciation expense .....	39,403	37,094	36,076
Amortization expense .....	5,031	963	1,108
Equity in income of affiliates and joint ventures .....	(1,998)	(1,158)	(2,782)
Amortization of deferred compensation and other .....	2,139	3,930	3,535
Increase in provision for uncollectable rents receivable .....	126	941	427
Changes in assets and liabilities:			
Increase in rents receivable .....	(774)	(1,186)	(953)
Decrease in inventory .....	1,846	1,887	---
(Increase) decrease in prepaid expenses and other assets .....	(1,439)	(7,610)	1,330
Increase (decrease) in accounts payable and accrued expenses .....	(3,055)	1,471	(1,358)
Increase (decrease) in rents received in advance and security deposits	(30)	235	(51)
	-----	-----	-----
Net cash provided by operating activities .....	75,163	80,176	80,708
	-----	-----	-----
CASH FLOWS FROM INVESTING ACTIVITIES			
Acquisition of rental properties .....	(6,836)	(56,531)	(17,770)
Proceeds from dispositions of assets .....	27,170	14,171	24,209
Distributions from (investment in) joint ventures .....	1,535	(7,149)	1,697
Proceeds from restructuring of College Heights joint venture, net .....	---	4,647	---
Contributions to and distributions from Affiliates, net .....	---	---	(11,493)
Purchase of RSI .....	---	(675)	---
Cash received in acquisition of RSI .....	---	839	---
Collections (funding) of notes receivable .....	(1,507)	(3,784)	3,478
Improvements:			
Improvements-corporate .....	(72)	(681)	(840)
Improvements-rental properties .....	(11,912)	(13,377)	(12,689)
Site development costs .....	(8,976)	(10,433)	(9,659)

Net cash (used in) investing activities .....	----- (598) -----	----- (72,973) -----	----- (23,067) -----
CASH FLOWS FROM FINANCING ACTIVITIES			
Net proceeds from stock options and employee stock purchase plan .....	9,581	8,296	10,112
Distributions to Common Stockholders, Common OP Unitholders and Perpetual Preferred OP Unitholders .....	(65,687)	(58,314)	(58,111)
Repurchase of Common Stock and OP Units .....	---	---	(41)
Collection of principal payments on employee notes .....	2,713	1,128	364
Line of credit:			
Proceeds .....	53,000	82,000	46,000
Repayments .....	(137,750)	(13,500)	(89,650)
Repayment of term loan .....	(100,000)	---	---
Refinancing - net proceeds (repayments) .....	501,057	(16,096)	37,870
Principal payments .....	(4,844)	(4,217)	(5,047)
Debt issuance costs .....	(14,165)	(584)	(631)
Net cash provided by (used in) financing activities .....	----- 243,905 -----	----- (1,287) -----	----- (59,134) -----
Net increase (decrease) in cash and cash equivalents .....	318,470	5,916	(1,493)
Cash and cash equivalents, beginning of year .....	7,270	1,354	2,847
Cash and cash equivalents, end of year .....	----- \$ 325,740 -----	----- \$ 7,270 -----	----- \$ 1,354 -----
SUPPLEMENTAL INFORMATION			
Cash paid during the year for interest .....	\$ 52,396 -----	\$ 46,097 -----	\$ 52,947 -----

The accompanying notes are an integral part of the financial statements

F-7

MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 - ORGANIZATION OF THE COMPANY AND BASIS OF PRESENTATION

Manufactured Home Communities, Inc., together with MHC Operating Limited Partnership (the "Operating Partnership") and other consolidated subsidiaries ("Subsidiaries"), are referred to herein as the "Company", "MHC", "we", "us", and "our". We believe that we have qualified for taxation as a real estate investment trust ("REIT") for federal income tax purposes since our taxable year ended December 31, 1993. We plan to continue to meet the requirements for taxation as a REIT. Many of these requirements, however, are highly technical and complex. We cannot, therefore, guarantee that we have qualified or will qualify in the future as a REIT. The determination that we are a REIT requires an analysis of various factual matters that may not be totally within our control and we cannot provide any assurance that the Internal Revenue Service ("IRS") will agree with our analysis. For example, to qualify as a REIT, at least 95% of our gross income must come from sources that are itemized in the REIT tax laws. We are also required to distribute to stockholders at least 90% of our REIT taxable income excluding capital gains. The fact that we hold our assets through MHC Operating Limited Partnership and its subsidiaries further complicates the application of the REIT requirements. Even a technical or inadvertent mistake could jeopardize our REIT status. Furthermore, Congress and the IRS might make changes to the tax laws and regulations, and the courts might issue new rulings that make it more difficult, or impossible, for us to remain qualified as a REIT. We do not believe, however, that any pending or proposed tax law changes would jeopardize our REIT status.

If we fail to qualify as a REIT, we would be subject to federal income tax at regular corporate rates. Also, unless the IRS granted us relief under certain statutory provisions, we would remain disqualified as a REIT for four years following the year we first failed to qualify. Even if the Company qualifies for taxation as a REIT, the Company is subject to certain state and local taxes on its income and property and Federal income and excise taxes on its undistributed income.

We are a fully integrated company that owns and operates manufactured home communities ("Communities") and park model communities ("Resorts"). The Company was formed to continue the property operations, business objectives and acquisition strategies of an entity that had owned and operated Communities since 1969. As of December 31, 2003, we owned or had an ownership interest in a portfolio of 142 Communities and Resorts (the "Properties") located throughout the United States containing 51,715 residential sites.

The operations of the Company are conducted primarily through the Operating Partnership. The Company contributed the proceeds from its initial public offering to the Operating Partnership for a general partnership interest. The financial results of the Operating Partnership and the Subsidiaries are consolidated in the Company's consolidated financial statements. In addition, since certain activities, if performed by the Company, may not have been qualifying REIT activities under the Internal Revenue Code of 1986, as amended (the "Code"), the Company has formed certain taxable REIT subsidiaries, as defined in the Code, to engage in such activities. Realty Systems, Inc. ("RSI") is a wholly owned subsidiary of the Company that, doing business as Carefree Sales, is engaged in the business of purchasing, selling and leasing manufactured homes that are located or will be located in Properties owned and managed by the Company. Carefree Sales also provides brokerage services to residents at such Properties. Typically, residents move from a Community but do not relocate their homes. Carefree Sales may provide brokerage services, in competition with other local brokers, by seeking buyers for the homes. Carefree Sales also leases homes to prospective residents with the expectation that the tenant eventually will purchase the home. Subsidiaries of RSI lease from the Operating Partnership certain real property within or adjacent to certain of the Properties consisting of golf courses, pro shops, stores and restaurants.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 - ORGANIZATION OF THE COMPANY AND BASIS OF PRESENTATION (CONTINUED)

The limited partners of the Operating Partnership (the "Common OP Unitholders") receive an allocation of net income which is based on their respective ownership percentage of the Operating Partnership which is shown on the Consolidated Financial Statements as Minority Interests - Common OP Units. As of December 31, 2003, the Minority Interests - Common OP Units represented 5,312,387 units of limited partnership interest ("OP Units") which are convertible into an equivalent number of shares of the Company's common stock. The issuance of additional shares of common stock or common OP Units changes the respective ownership of the Operating Partnership for both the Minority Interests and the Company.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Basis of Consolidation

The Company consolidates its majority owned subsidiaries in which it has the ability to control the operations of the subsidiaries. The Company does not consolidate entities with respect to which it does not have sole control over the major decisions. All inter-company transactions have been eliminated in consolidation. The Company's acquisitions were all accounted for as purchases in accordance with Accounting Principles Board Opinion No. 16 "Business Combinations" for those transactions initiated before June 30, 2001 and in accordance with Statement of Financial Accounting Standards No. 141 ("SFAS No. 141") "Business Combinations" for those transactions completed after June 30, 2001.

In accordance with SFAS 141, the Company allocates the purchase price of real estate to land, land improvements, building and, if determined to be material, intangibles, such as the value of above, below and at-market leases and origination costs associated with the in-place leases. We depreciate the amount allocated to land improvements, building and other intangible assets over their estimated useful lives, which generally range from three to thirty years. The values of the above and below market leases are amortized and recorded as either an increase (in the case of below market leases) or a decrease (in the case of above market leases) to rental income over the remaining term of the associated lease. The value associated with in-place leases is amortized over the expected term, which includes an estimated probability of lease renewal.

In January 2003, the Financial Accounting Standards Board ("FASB") issued Interpretation No. 46, Consolidation of Variable Interest Entities ("FIN 46"). The objective of this Interpretation is to provide guidance on how to identify a variable interest entity ("VIE") and determine when the assets, liabilities, non-controlling interests, and results of operations of a VIE need to be included in the company's consolidated financial statements. A company that holds variable interests in an entity will need to consolidate such entity if the company absorbs a majority of the VIE's expected losses or receives a majority of the entity's expected residual returns if they occur, or both.

The provisions of FIN 46 apply to the Company upon initial involvement with the respective entity for transactions created after January 31, 2003. The adoption of FIN 46 in 2003 had no effect on the Company in 2003. The provisions of FIN 46 and related revised interpretations apply no later than the end of the first interim reporting period ending March 15, 2004 (March 31, 2004) for entities created before February 1, 2003. The Company is currently evaluating and assessing the impact of FIN 46 and the related revised interpretations on entities created before February 1, 2003.

(b) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(c) Segments

We manage all our operations on a property by property basis. Since each property has similar economic and operational characteristics, the Company has one reportable segment, which is the operation of manufactured home communities. The following table identifies our five largest markets and provides information regarding our Communities and Resorts including Communities owned in joint ventures.

MAJOR MARKET	NUMBER OF PROPERTIES	TOTAL SITES	PERCENT OF TOTAL SITES	PERCENT OF TOTAL PROPERTY OPERATING REVENUES
Florida	52	23,366	45.3%	40.8%
California	25	6,229	12.0%	20.1%
Arizona	21	5,930	11.5%	8.5%
Colorado	10	3,452	6.7%	8.2%
Delaware	7	2,238	4.3%	4.1%
Other	27	10,500	20.2%	18.3%
Total	142	51,715	100.0%	100.0%

Our largest Property, Bay Indies, located in Venice, Florida, accounted for approximately 3.0% of our total property operating revenues for the year ended December 31, 2003. The operation of manufactured home communities segment comprised approximately 97%, 97.8% and 97.2% of total property operating revenues for the years ended December 31, 2003, 2002 and 2001, respectively. The operation of manufactured home communities segment comprised approximately 93.5% and 92.2% of total assets at December 31,

2003 and 2002, respectively. The distribution of the Properties throughout the United States reflects our belief that geographic diversification helps insulate the portfolio from regional economic influences. We intend to target new acquisitions in or near markets where the Properties are located and will also consider acquisitions of properties outside such markets.

(d) Inventory

Inventory consists of new and used manufactured homes, is stated at the lower of cost or market after consideration of the N.A.D.A. (National Automobile Dealers Association) Manufactured Housing Appraisal Guide and the current market value of each home included in the manufactured home inventory. Inventory sales revenues and resale revenues are recognized when the home sale is closed. Resale revenues are stated net of commissions paid to employees of \$893,000 for the year ended December 31, 2003.

(e) Real Estate

Real estate is recorded at cost less accumulated depreciation. Depreciation is computed on the straight-line basis over the estimated useful lives of the assets. We use a 30-year estimated life for buildings acquired and structural and land improvements, a ten-to-fifteen-year estimated life for building upgrades and a three-to-seven-year estimated life for furniture, fixtures and equipment. Expenditures for ordinary maintenance and repairs are expensed to operations as incurred and significant renovations and improvements that improve the asset and extend the useful life of the asset are capitalized and then expensed over their estimated useful life.

In addition, the FASB is currently reviewing the methods of depreciation and cost capitalization for all industries and in June 2001 issued FASB Exposure Draft, "Accounting in Interim and Annual Financial Statements for Certain Costs and Activities Related to Property, Plant and Equipment", the implementation of which, if issued, could also have a material effect on the Company's results of operations. Total depreciation expense was \$39.4 million, \$37.3 million and \$36.0 million for the years ended December 31, 2003, 2002 and 2001, respectively.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(e) Real Estate (continued)

We evaluate our Properties for impairment when conditions exist which may indicate that it is probable that the sum of expected future cash flows (undiscounted) from a Property over the anticipated holding period is less than its carrying value. Upon determination that a permanent impairment has occurred, the applicable Property is reduced to fair value. For the year ended December 31, 2003, permanent impairment conditions did not exist at any of our Properties. For properties to be disposed of, an impairment loss is recognized when the fair value of the property, less the estimated cost to sell, is less than the carrying amount of the property measured at the time the Company has a commitment to sell the property and/or is actively marketing the property for sale. A property to be disposed of is reported at the lower of its carrying amount or its estimated fair value, less costs to sell. Subsequent to the date that a property is held for disposition, depreciation expense is not recorded. In August 2001, the FASB issued Statement of Financial Accounting Standards No. 144 ("SFAS No. 144"), "Accounting for the Impairment or Disposal of Long-Lived Assets" which is effective for fiscal years beginning after December 15, 2001. The Company adopted SFAS No. 144 during 2002 and we have shown separately as discontinued operations in all periods presented the results of operations for all assets sold during 2003 and 2002 or assets classified as real estate held for disposition as of December 31, 2003 and 2002. The gain on

sale of discontinued operations for 2003 and 2002 is included in the gain on sale of properties and other.

Certain costs, primarily legal costs, relative to our efforts to effectively change the use and operations of several Properties subject to rent control (see Note 17) are currently classified in other assets. These costs, to the extent these efforts are successful, are capitalized to the extent of the established value of the revised project and included in the net investment in real estate for the appropriate Properties (see Note 5). To the extent these efforts are not successful, these costs will be expensed. In addition, we capitalize certain costs, primarily legal costs, related to entering into lease agreements which govern the terms under which we may enter into leases with individual tenants and which are expensed over the term of the lease agreement.

(f) Cash and Cash Equivalents

We consider all demand and money market accounts and certificates of deposit with a maturity, when purchased, of three months or less to be cash equivalents.

(g) Notes Receivable

Notes receivable generally are stated at their outstanding unpaid principal balances net of any deferred fees or costs on originated loans, or unamortized discounts or premiums net of a valuation allowance. Interest income is accrued on the unpaid principal balance. Discounts or premiums are amortized to income using the interest method. In certain cases we finance the sale of homes to our residents (referred to as "Chattel Loans") which loans are secured by the homes. The valuation allowance for the Chattel Loans is calculated based a comparison of the outstanding principal balance of each note compared to the N.A.D.A. value and the current market value of the underlying manufactured home collateral.

(h) Investments in Joint Ventures

Investments in unconsolidated joint ventures are accounted for using the equity method of accounting because we do not have control over the activities of the investees. Our net equity investment is reflected on the consolidated balance sheets, and the consolidated statements of operations include our share of net income or loss from the unconsolidated joint ventures. Any difference between the carrying amount of these investments on our consolidated balance sheet and the historical cost of the underlying equity is depreciated as an adjustment to income from unconsolidated joint ventures generally over 30 years.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(i) Fair Value of Financial Instruments

The Company's financial instruments include short-term investments, notes receivable, accounts receivable, accounts payable, other accrued expenses, mortgage notes payable and interest rate hedge arrangements. The fair values of all financial instruments, including notes receivable, were not materially different from their carrying values at December 31, 2003 and 2002.

(j) Deferred Financing Costs

Deferred financing costs include fees and costs incurred to obtain long-term financing. The costs are being amortized over the terms of the respective loans on a level yield basis. Unamortized deferred financing fees are written-off when debt is retired before the maturity date. Upon



amendment of the Line of Credit, unamortized deferred financing fees are accounted for in accordance with EITF No. 98-14, "Debtor's Accounting for Changes in Line-of-Credit or Revolving-Debt Arrangements." Accumulated amortization for such costs was \$2.7 million and \$2.4 million at December 31, 2003 and 2002, respectively.

(k) Revenue Recognition

Rental income attributable to leases is recorded when earned from tenants. We will reserve for receivables when we believe the ultimate collection is less than probable. Our provision for uncollectable rents receivable was \$827,000 as of December 31, 2003 and \$700,000 as of December 31, 2002. Income from home sales is recognized when the earnings process is complete. The earnings process is complete when the home has been delivered, the purchaser has accepted the home and title has transferred.

(l) Minority Interests

Net income is allocated to Common OP Unitholders based on their respective ownership percentage of the Operating Partnership. An ownership percentage is represented by dividing the number of Common OP Units held by the Common OP Unitholders (5,312,387 and 5,359,927 at December 31, 2003 and 2002, respectively) by OP Units and shares of Common Stock outstanding. Issuance of additional shares of Common Stock or Common OP Units changes the percentage ownership of both the Minority Interests and the Company. Due in part to the exchange rights (which provide for the conversion of Common OP Units into shares of Common Stock on a one-for-one basis), such transactions and the proceeds therefrom are treated as capital transactions and result in an allocation between stockholders' equity and Minority Interests to account for the change in the respective percentage ownership of the underlying equity of the Operating Partnership.

On September 30, 1999, the Operating Partnership completed a \$125 million private placement of 9.0% Series D Cumulative Perpetual Preferred Units ("POP Units") with two institutional investors. The POP Units, which are callable by the Company after five years, have no stated maturity or mandatory redemption, have no voting rights and are not convertible into OP Units or Common Stock. Income is allocated to the POP Units at a preferred rate per annum of 9.0% on the original capital contribution of \$125 million. Costs related to the placement of \$3.1 million were recorded as a reduction to additional paid-in capital.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

(m) Income Taxes

Due to the structure of the Company as a REIT, the results of operations contain no provision for Federal income taxes. However, the Company may be subject to certain state and local income, excise or franchise taxes. We paid state and local taxes of approximately \$56,000, \$20,000 and \$50,000 during the years ended December 31, 2003, 2002 and 2001, respectively. In addition, taxable income from non-REIT activities managed through taxable REIT subsidiaries is subject to federal, state and local income taxes. As of December 31, 2003, net investment in real estate and notes receivable had a Federal tax basis of approximately \$743.3 million and \$27.6 million, respectively.

(n) Derivative Instruments and Hedging Activities

We recognize all derivatives on the balance sheet at fair value. Derivatives that are not hedges must be adjusted to fair value through income. If the derivative is a hedge, depending on the nature of the hedge, changes in the fair value of derivatives will either be offset against the

change in fair value of the hedged assets, liabilities or firm commitments through earnings or recognized in other comprehensive income until the hedged item is recognized in earnings.

(o) Reclassifications

Certain 2002 and 2001 amounts have been reclassified to conform to the 2003 financial presentation. Such reclassifications have no effect on the operations or equity as originally presented.

(p) Stock Compensation

Prior to January 1, 2003, we accounted for our stock compensation in accordance with APB No. 25, "Accounting for Stock Issued to Employees", based upon the intrinsic value method. This method results in no compensation expense for options issued with an exercise price equal to or exceeding the market value of the Common Stock on the date of grant. Effective January 1, 2003, we elected to account for our stock compensation in accordance with SFAS No. 123 and its amendment (SFAS No. 148), "Accounting for Stock Based Compensation", which resulted in compensation expense being recorded based on the fair value of the stock options and other equity awards issued (see Note 14).

NOTE 3 - EARNINGS PER COMMON SHARE

Earnings per common share are based on the weighted average number of common shares outstanding during each year. Statement of Financial Accounting Standards No. 128, "Earnings Per Share" ("SFAS No. 128") defines the calculation of basic and fully diluted earnings per share. Basic and fully diluted earnings per share are based on the weighted average shares outstanding during each year and basic earnings per share excludes any dilutive effects of options, warrants and convertible securities. The conversion of OP Units has been excluded from the basic earnings per share calculation. The conversion of an OP Unit to a share of Common Stock has no material effect on earnings per common share.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 3 - EARNINGS PER COMMON SHARE (CONTINUED)

The following table sets forth the computation of basic and diluted earnings per share for the years ended December 31, 2003, 2002, and 2001 (amounts in thousands):

	YEARS ENDED DECEMBER 31,		
	2003	2002	2001
NUMERATORS:			
INCOME FROM CONTINUING OPERATIONS:			
Income from continuing operations - basic .....	\$17,424	\$23,706	\$30,006
Amounts allocated to dilutive securities .....	4,330	5,848	7,688
Income from continuing operations - fully diluted ...	\$21,754	\$29,554	\$37,694
INCOME FROM DISCONTINUED OPERATIONS:			
Income from discontinued operations - basic .....	\$ 9,590	\$12,739	\$ 2,077
Amounts allocated to dilutive securities .....	2,144	3,078	521
Income from discontinued operations - fully diluted..	\$11,734	\$15,817	\$ 2,598
NET INCOME AVAILABLE FOR COMMON SHARES:			
Net income available for Common Shares - basic .....	\$27,014	\$36,445	\$32,083
Amounts allocated to dilutive securities .....	6,474	8,926	8,209

Net income available for Common Shares - fully diluted .....	\$33,488	\$45,371	\$40,292
	=====	=====	=====
DENOMINATOR:			
Weighted average Common Shares outstanding - basic ....	22,077	21,617	21,036
Effect of dilutive securities:			
Redemption of Common OP Units for Common Shares .....	5,342	5,403	5,466
Employee stock options and restricted shares .....	583	612	508
	-----	-----	-----
Weighted average Common Shares outstanding - fully diluted .....	28,002	27,632	27,010
	=====	=====	=====

NOTE 4 - COMMON STOCK AND OTHER EQUITY RELATED TRANSACTIONS

The following table presents the changes in the Company's outstanding Common Stock for the years ended December 31, 2003, 2002 and 2001 (excluding OP Units of 5,312,387, 5,359,927 and 5,426,374 outstanding at December 31, 2003, 2002 and 2001, respectively):

	2003	2002	2001
	-----	-----	-----
Shares outstanding at January 1, .....	22,093,240	21,562,343	21,064,785
Common Stock issued through conversion of OP Units .....	47,540	66,447	87,956
Common Stock issued through exercise of options .....	302,526	282,959	387,115
Common Stock issued through stock grants .....	35,000	108,341	57,000
Common Stock issued through Employee Stock Purchase Plan .....	85,042	73,150	98,987
Common Stock repurchased and retired .....	---	---	(133,500)
	-----	-----	-----
Shares outstanding at December 31, .....	22,563,348	22,093,240	21,562,343
	=====	=====	=====

As of December 31, 2003 and 2002, the Company's percentage ownership of the Operating Partnership was approximately 80%. The remaining approximately 20% is owned by the Common OP Unitholders.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 4 - COMMON STOCK AND OTHER EQUITY RELATED TRANSACTIONS (CONTINUED)

On September 30, 1999, the Operating Partnership completed a \$125 million private placement of 9.0% Series D Cumulative Perpetual Preferred Units ("POP Units") with two institutional investors. The POP Units, which are callable by the Company after five years, have no stated maturity or mandatory redemption. The Operating Partnership pays distributions of 9.0% per annum on the \$125 million of POP Units. Distributions on the POP Units are paid quarterly on the last calendar day of each quarter.

The following distributions have been declared and/or paid to common stockholders and Minority Interests since January 1, 2001:

DISTRIBUTION AMOUNT PER SHARE	FOR THE QUARTER ENDING	SHAREHOLDER RECORD DATE	PAYMENT DATE
-----	-----	-----	-----
\$0.4450	March 31, 2001	March 30, 2001	April 13, 2001
\$0.4450	June 30, 2001	June 29, 2001	July 13, 2001
\$0.4450	September 30, 2001	September 28, 2001	October 12, 2001
\$0.4450	December 31, 2001	December 28, 2001	January 11, 2002
-----	-----	-----	-----
\$0.4750	March 31, 2002	March 29, 2002	April 12, 2002
\$0.4750	June 30, 2002	June 28, 2002	July 12, 2002
\$0.4750	September 30, 2002	September 27, 2002	October 11, 2002

\$0.4750	December 31, 2002	December 27, 2002	January 10, 2003
-----	-----	-----	-----
\$0.4950	March 31, 2003	March 28, 2003	April 11, 2003
\$0.4950	June 30, 2003	June 27, 2003	July 11, 2003
\$0.4950	September 30, 2003	September 26, 2003	October 10, 2003

On December 12, 2003, we declared a one-time special distribution of \$8.00 per share payable to stockholders of record on January 8, 2004. We used proceeds from the \$501 million borrowing in October, 2003 to pay the special distribution on January 16, 2004. The special cash dividend will be reflected on stockholders' 2004 1099-DIV to be issued in January 2005.

The Company adopted, effective July 1, 1997, the 1997 Non-Qualified Employee Stock Purchase Plan ("ESPP"). Pursuant to the ESPP, certain employees and directors of the Company may each annually acquire up to \$250,000 of Common Stock of the Company. The aggregate number of shares of Common Stock available under the ESPP shall not exceed 1,000,000, subject to adjustment by the Company's Board of Directors. The Common Stock may be purchased monthly at a price equal to 85% of the lesser of: (a) the closing price for a share of Common Stock on the last day of the offering period; and (b) the closing price for a share of Common Stock on the first day of the offering period. Shares of Common Stock issued through the ESPP for the years ended December 31, 2003, 2002 and 2001 were 82,943, 71,107 and 96,485, respectively.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 5 - INVESTMENT IN REAL ESTATE

Land improvements consist primarily of improvements such as grading, landscaping and infrastructure items such as streets, sidewalks or water mains. Depreciable property consists of permanent buildings in the Properties such as clubhouses, laundry facilities, maintenance storage facilities, and furniture, fixtures and equipment.

During the year ended December 31, 2001, we acquired two Florida Properties, totaling 730 sites, for an aggregate purchase price of approximately \$17.3 million and completed the sale of seven Properties, totaling 1,281 sites, in Kansas, Missouri and Oklahoma, for a total sale price of approximately \$17.4 million. A gain of \$8.1 million was recorded on the sale. In addition, we terminated a lease to a third-party operator for the campground and RV resort facilities at the Property known as Bulow Plantation in Flagler Beach, Florida, and assumed operation of these facilities directly. Also during 2001, we finalized a settlement agreement whereby we received \$10.8 million in proceeds related to the sale of a Property in Indiana.

During the year ended December 31, 2002, we acquired the eleven Properties listed in the table below. The acquisitions were funded with borrowings on our Line of Credit and the assumption of \$47.9 million of mortgage debt, which includes a \$3.0 million discount mark-to-market adjustment. In addition, we purchased adjacent land and land improvements for several Properties for approximately \$559,000.

DATE ACQUIRED	PROPERTY	LOCATION	TOTAL SITES	PURCHASE PRICE	DEBT ASSUMED
-----	-----	-----	-----	-----	-----
				(\$ millions)	(\$ millions)
March 12, 2002	Mt. Hood Village	Welches, OR	450	\$ 7.2	\$ ---
July 10, 2002	Harbor View Village	New Port Richey, FL	471	15.5	8.1
July 31, 2002	Golden Sun	Apache Junction, AZ	329	6.3	3.1
July 31, 2002	Countryside	Apache Junction, AZ	560	7.5	---
July 31, 2002	Holiday Village	Ormond Beach, FL	301	10.4	7.1
July 31, 2002	Breezy Hill	Pompano Beach, FL	762	20.5	10.5
August 14, 2002	Highland Woods	Pompano Beach, FL	148	3.9	2.5
August 7, 2002	Tropic Winds	Harlingen, TX	531	4.9	---
October 1, 2002	Silk Oak Lodge	Clearwater, FL	180	6.2	3.9
December 18, 2002	Hacienda Village	New Port Richey, FL	519	16.8	10.2
December 31, 2002	Glen Ellen	Clearwater, FL	117	2.4	2.5
			-----	-----	-----

TOTALS

4,368  
=====\$101.6  
=====\$47.9  
=====

Also during 2002, we effectively sold 17 Properties as part of a restructuring of the College Heights Joint Venture discussed hereinafter. In addition, we sold Camelot Acres, a 319 site Property in Burnsville, Minnesota, for approximately \$14.2 million.

During the year ended December 31, 2003, we sold the three properties listed in the table below. Proceeds from the sales were used to repay amounts on the Company's Line of Credit.

DATE DISPOSED	PROPERTY	LOCATION	TOTAL SITES	DISPOSITION PRICE	GAIN ON SALE
-----	-----	-----	-----	-----	-----
				(\$ millions)	(\$ millions)
June 6, 2003	Independence Hill	Morgantown, WV	203	\$ 3.9	\$ 2.8
June 6, 2003	Brook Gardens	Hamburg, NY	424	17.8	4.1
June 30, 2003	Pheasant Ridge	Mount Airy, MD	101	5.4	3.9
			---	---	---
			728	\$27.1	\$10.8
			===	=====	=====

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

## NOTE 5 - INVESTMENT IN REAL ESTATE (CONTINUED)

In December, 2003, we acquired three Resort Properties listed in the table below. The acquisitions were funded with monies held in short-term investments. The acquisitions included the assumption of liabilities of approximately \$650,000. Also during 2003, we acquired a parcel of land adjacent to one of our Properties for approximately \$97,000.

DATE ACQUIRED	PROPERTY	LOCATION	TOTAL SITES	PURCHASE PRICE	DEBT ASSUMED
-----	-----	-----	-----	-----	-----
				(\$ millions)	(\$ millions)
December 3, 2003	Toby's	Arcadia, FL	379	\$4.3	\$---
December 15, 2003	Araby Acres	Yuma, AZ	337	5.7	3.2
December 15, 2003	Foothill	Yuma, AZ	180	1.8	1.4

All acquisitions have been accounted for utilizing the purchase method of accounting and, accordingly, the results of operations of acquired assets are included in the statements of operations from the dates of acquisition. We acquired all of these Properties from unaffiliated third parties.

During the years ended December 31, 2003 and 2002, we capitalized approximately \$1.5 million and \$5.7 million of costs, respectively, primarily legal costs, relative to our efforts to effectively change the use and operations of several Properties which are currently recorded in other assets. These costs will be expensed if management determines these efforts will not be successful. Due to the successful settlement of litigation related to one Property, DeAnza Santa Cruz, we reclassified approximately \$5.3 million of these costs to land improvements and will depreciate these costs over 30 years (see Note 17).

We actively seek to acquire additional Properties and currently are engaged in negotiations relating to the possible acquisition of a number of Properties. At any time these negotiations are at varying stages which may include contracts outstanding to acquire certain properties which are subject to satisfactory

completion of our due diligence review (see Note 18).

NOTE 6 - INVESTMENT IN JOINT VENTURES

The Company recorded approximately \$2.1 million, \$1.3 million, and \$971,000 of net income from joint ventures in the years ended December 31, 2003, 2002 and 2001, respectively; and received approximately \$1.5 million and \$607,000 in distributions from joint ventures in the years ended December 31, 2003 and 2002, respectively. Due to the Company's inability to control the joint ventures, the Company accounts for its investment in the joint ventures using the equity method of accounting.

The following is a summary of the Company's investments in unconsolidated joint ventures:

PROPERTY -----	LOCATION -----	NUMBER OF SITES -----	ECONOMIC INTEREST (a) -----	INVESTMENT AS OF DEC. 31, 2003 ----- (in thousands)	INVESTMENT AS OF DEC. 31, 2002 ----- (in thousands)
Trails West .....	Tucson, AZ	503	50%	\$ 1,752	\$ 1,917
Plantation .....	Calimesa, CA	385	50%	2,825	2,861
Manatee .....	Bradenton, FL	290	90%	45	631
Home .....	Hallandale, FL	136	90%	1,082	1,092
Villa del Sol .....	Sarasota, FL	207	90%	654	726
Voyager .....	Tucson, AZ	---	25%	4,412	4,463
Preferred Interests in College Heights		---	17%	8,058	7,944
		-----	-----	-----	-----
		1,521		\$18,828	\$19,634
		=====		=====	=====

(a) The percentages shown approximate the Company's economic interest. The Company's legal interest may differ.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 6 - INVESTMENT IN JOINT VENTURE (CONTINUED)

Effective September 1, 2002, the Company restructured its investment in Wolverine Property Investment Limited Partnership (the "College Heights Joint Venture" or the "Venture"), a joint venture with Wolverine Investors, LLP. The Venture included 18 Properties with 3,581 sites. The results of operations of the College Heights Joint Venture prior to restructuring were included with the results of the Company due to the Company's voting equity interest and control over the Venture. Pursuant to the restructuring, the Company sold its general partnership interest, sold all of the Company's voting equity interest and reduced the Company's total investment in the College Heights Joint Venture. As consideration for the sale, the Company retained sole ownership of Down Yonder, a 361 site Community in Clearwater, Florida, received cash of approximately \$5.2 million and retained preferred limited partnership interests of approximately \$10.3 million, recorded net of a \$2.4 million reserve. The continuing preferred limited partnership interests will be accounted for using the equity method and reported as an investment in a joint venture.

NOTE 7 - ACQUISITION OF REALTY SYSTEMS, INC.

On January 1, 2002, the Company purchased all of the common stock of Realty Systems, Inc. ("RSI"). The Company previously owned the non-voting preferred stock of RSI and had notes receivable from RSI which were recorded as an investment in affiliate. The Company purchased the common stock of RSI from Equity Group Investments, Inc., controlled by Samuel Zell, Chairman of the Board of Directors of the Company, for approximately \$675,000. As a result of this acquisition, the Company owns and controls RSI and consolidates the financial results of RSI with those of the Company. Prior to the purchase of the common stock of RSI, we accounted for our investment in RSI using the equity method and classified the investment as investment in and advances to affiliates.

The following table summarizes the estimated fair values of the assets acquired and liabilities assumed at the date of acquisition:

(amounts in thousands)

ASSETS

Buildings and other depreciable property..	\$ 6,656
Cash and cash equivalents .....	839
Notes receivable .....	4,772
Investment in joint ventures .....	200
Inventory .....	35,524
Prepaid expenses and other assets .....	2,724
	-----
Total assets acquired .....	50,715

LIABILITIES

Other notes payable .....	(12,862)
Accounts payable and accrued expenses ....	(2,718)
Accrued interest payable .....	(73)
	-----
Total liabilities assumed .....	(15,653)
Conversion of previous investment .....	(34,387)
	-----
Cash paid for common equity interest .....	\$ (675)
	=====

NOTE 8 - NOTES RECEIVABLE

At December 31, 2003 and 2002, the Company had approximately \$11.6 million and \$10.0 million in notes receivable, respectively. On December 28, 2000, the Company, in connection with the Voyager Joint Venture, entered into an agreement to loan \$3.0 million to certain principals of Meadows Management Company. The notes are collateralized with a combination of Common OP Units and partnership interests in this and other joint ventures. The notes bear interest at prime plus 0.5% per annum, require quarterly interest only payments and mature on December 31, 2011. The outstanding balance on these notes as of December 31, 2003 is \$1.6 million.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 8 - NOTES RECEIVABLE (CONTINUED)

The Company has approximately \$9.9 million in Chattel Loans receivable, which yield interest at a per annum average rate of approximately 9.9%, have an average term and amortization of 5 to 15 years, require monthly principal and interest payments and are collateralized by manufactured homes at certain of the Properties.

NOTE 9 - EMPLOYEE NOTES RECEIVABLE

As of December 31, 2002, the Company had employee notes receivable of approximately \$2.7 million which were repaid in 2003. These notes were collateralized by shares of the Company's Common Stock and are presented as a reduction of Stockholders' Equity.

NOTE 10 - LONG-TERM BORROWINGS

As of December 31, 2003 and December 31, 2002, the Company had outstanding mortgage indebtedness of approximately \$1,076 million and \$575.4 million, respectively, encumbering 114 and 66 of the Company's Properties, respectively. As of December 31, 2003 and December 31, 2002, the carrying value of such Properties was approximately \$1,124 million and \$720 million, respectively.

The outstanding mortgage indebtedness as of December 31, 2003 consists of:

- Approximately \$501.4 million of mortgage debt ("Mortgage Debt") consisting of 49 loans collateralized by 51 Properties, beneficially owned by separate legal entities that are subsidiaries of the Company, which we closed on October 17, 2003 (the "Recap"). Of this Mortgage Debt, \$177.9 million bears interest at 5.35% per annum and matures November 1, 2008; \$71.1 million bears interest at 5.72% per annum and matures November 1, 2010; \$79.1 million bears interest at 6.02% per annum and matures November 1, 2013; and \$173.3 million bears interest at 6.33% per annum and matures November 1, 2015. The Mortgage Debt amortizes over 30 years.
- A \$265.0 million mortgage note (the "\$265 Million Mortgage") collateralized by 28 Properties beneficially owned by MHC Financing Limited Partnership. The \$265 Million Mortgage has a maturity date of January 2, 2028 and bears interest at 7.015% per annum. There is no principal amortization until February 1, 2008, after which principal and interest are to be paid from available cash flow and the interest rate will be reset at a rate equal to the then 10-year U.S. Treasury obligations plus 2.0%. The \$265 Million Mortgage is presented net of a settled hedge of \$3.0 million (net of accumulated amortization of \$357,000) which is being amortized into interest expense over the life of the loan.
- A \$91.4 million mortgage note (the "DeAnza Mortgage") collateralized by 6 Properties beneficially owned by MHC-DeAnza Financing Limited Partnership. The DeAnza Mortgage bears interest at a rate of 7.82% per annum, amortizes beginning August 1, 2000 over 30 years and matures July 1, 2010.
- A \$48.9 million mortgage note (the "Stagecoach Mortgage") collateralized by 7 Properties beneficially owed by MHC Stagecoach L.L.C. The Stagecoach Mortgage bears interest at a rate of 6.98% per annum, amortizes beginning September 1, 2001 over 10 years and matures September 1, 2011.
- A \$44.5 million mortgage note (the "Bay Indies Mortgage") collateralized by one Property beneficially owned by MHC Bay Indies, L.L.C. On April 17, 2003, we entered into an agreement to refinance and increase the Bay Indies Mortgage from approximately \$21.9 million to \$45 million. Under the new agreement, the Bay Indies Mortgage bears interest at 5.69% per annum, amortizes over 25 years and matures April 17, 2013.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 10 - LONG-TERM BORROWINGS (CONTINUED)

- A \$15.3 million mortgage note (the "Date Palm Mortgage") collateralized by one Property beneficially owned by MHC Date Palm, L.L.C. The Date Palm Mortgage bears interest at a rate of 7.96% per annum, amortizes beginning August 1, 2000 over 30 years and matures July 1, 2010.
- Approximately \$112.2 million of mortgage debt on 20 other various Properties, which was recorded at fair market value with the related discount or premium being amortized over the life of the loan using the effective interest rate. Scheduled maturities for the outstanding indebtedness are at various dates through November 30, 2020, and fixed interest rates range from 6.5% to 9.3% per annum. Included in this debt, the Company has a \$2.4 million loan recorded to account for a direct financing lease entered into in May 1997. In addition, \$4.6 million of this debt was assumed in the acquisition of three Properties in December, 2003 (see Note 5).

We have an unsecured Line of Credit with a group of banks (the "Line of Credit") with a total facility of \$110 million, bearing interest at the London Interbank Offered Rate ("LIBOR") plus 1.65% that matures on August 9, 2006. We



pay a quarterly fee on the average unused amount of the total facility equal to 0.15% of such amount. In October, 2003, all amounts outstanding on the Line of Credit were repaid with proceeds from the Recap. As of December 31, 2003, \$110 million was available under the Credit Agreement. The Line of Credit had a total facility of \$150 million prior to amendment in December, 2003.

We had a \$100 million unsecured term loan (the "Term Loan") with a group of banks with interest only payable monthly at LIBOR plus 1.375%. In October, 2003, we paid off the Term Loan with proceeds from the Recap.

On October 29, 2001, we entered into an interest rate swap agreement (the "2001 Swap"), effectively fixing LIBOR on \$100 million of our floating rate debt at approximately 3.7% per annum for the period October 2001 through August 2004. The terms of the 2001 Swap required monthly settlements on the same dates interest payments were due on the debt. In accordance with SFAS No. 133 as herein defined, the 2001 Swap was reflected at market value. In November, 2003, we unwound the 2001 Swap at a cost of approximately \$3 million, which is included in interest and related amortization in 2003 in the accompanying Consolidated Statements of Operations.

Aggregate payments of principal on long-term borrowings for each of the next five years and thereafter are as follows (amounts in thousands):

YEAR	AMOUNT
2004	\$ --
2005	6,478
2006	17,409
2007	265,113
2008	200,908
Thereafter	586,371
Net unamortized premiums and discounts	17
Total	\$1,076,296

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 11 - LEASE AGREEMENTS

The leases entered into between the tenant and the Company for the rental of a site are generally month-to-month or for a period of one to ten years, renewable upon the consent of the parties or, in some instances, as provided by statute. Non-cancelable long-term leases are in effect at certain sites within approximately 25 of the Properties. Rental rate increases at these Properties are primarily a function of increases in the Consumer Price Index, taking into consideration certain floors and ceilings. Additionally, periodic market rate adjustments are made as deemed necessary. Future minimum rents are scheduled to be received under non-cancelable tenant leases at December 31, 2003 as follows (amounts in thousands):

YEAR	AMOUNT
2004	46,415
2005	48,112
2006	38,750
2007	31,794

2008	22,253
Thereafter	20,708
	-----
Total	\$208,032
	=====

NOTE 12 - GROUND LEASES

The Company leases land under non-cancelable operating leases at certain of the Properties expiring in various years from 2022 to 2031 with terms which require twelve equal payments per year plus additional rents calculated as a percentage of gross revenues. For the years ended December 31, 2003, 2002 and 2001, ground lease rent was approximately \$1.6 million per year. Minimum future rental payments under the ground leases are approximately \$1.6 million for each of the next five years and approximately \$26.3 million thereafter.

NOTE 13 - TRANSACTIONS WITH RELATED PARTIES

Equity Group Investments, Inc. ("EGI"), an entity controlled by Mr. Samuel Zell, Chairman of the Company's Board of Directors, and certain of its affiliates have provided services such as administrative support and investor relations. Fees paid to EGI and its affiliates amounted to approximately \$300, \$1,000 and \$2,000 for the years ended December 31, 2003, 2002 and 2001, respectively. There were no significant amounts due to these affiliates as of December 31, 2003 and 2002, respectively.

Certain related entities, affiliated with Mr. Zell, have provided services to the Company. These entities include, but are not limited to, The Riverside Agency, Inc. which provided insurance brokerage services and Two North Riverside Plaza Joint Venture Limited Partnership from which the Company leases office space. Fees paid to these entities amounted to approximately \$404,000, \$645,000 and \$454,000 for the years December 31, 2003, 2002 and 2001, respectively. Amounts due to these affiliates were approximately \$32,000 and \$52,000 as of December 31, 2003 and 2002, respectively. In addition, during 2003, we paid \$25,000 to J. Green & Co., L.L.C. for services provided by Mr. Berman, the Company's current Chief Financial Officer, prior to his employment by the Company.

Related party agreements or fee arrangements are generally for a term of one year and approved by independent members of the Company's Board of Directors.

NOTE 14 - STOCK OPTION PLAN AND STOCK GRANTS

The Company's Stock Option and Stock Award Plan (the "Plan") was adopted in December 1992 and amended and restated from time to time, most recently effective March 23, 2001. Pursuant to the Plan, officers, directors, employees and consultants of the Company are offered the opportunity (i) to acquire shares of Common Stock through the grant of stock options ("Options"), including non-qualified stock options and, for key employees, incentive stock options within the meaning of Section 422 of the Internal Revenue Code; and (ii) to be awarded shares of Common Stock ("Restricted Stock Grants"), subject to conditions and restrictions determined by the Compensation, Nominating, and Corporate Governance Committee of the Board (the "Compensation Committee"). The Compensation Committee will determine the vesting schedule, if any, of each Option and the term, which term shall not exceed ten years from the date of grant. As to the Options that have been granted through December 31, 2003 to officers, employees and consultants, generally, one-third are exercisable one year after

NOTE 14 - STOCK OPTION PLAN AND STOCK GRANTS (CONTINUED)

the initial grant, one-third are exercisable two years following the date such Options were granted and the remaining one-third are exercisable three years following the date such Options were granted. A maximum of 6,000,000 shares of Common Stock are available for grant under the Plan and no more than 250,000 shares may be subject to grants to any one individual in any calendar year.

Grants under the Plan are made by the Compensation Committee, which determines the individuals eligible to receive awards, the types of awards, and the terms, conditions and restrictions applicable to any award. In addition, the terms of two specific types of awards are contemplated under the Plan:

- The first type of award is a grant of Options or Restricted Stock Grants of Common Stock made to each member of the Board at the meeting held immediately after each annual meeting of the Company's stockholders. Generally, if the director elects to receive Options, the grant will cover 10,000 shares of Common Stock at an exercise price equal to the fair market value on the date of grant. If the director elects to receive a Restricted Stock Grant of Common Stock, he or she will receive an award of 2,000 shares. Exercisability or vesting with respect to either type of award will be with respect to one-third of the award after six months, two-thirds of the award after one year, and the full award after two years.
- The second type of award is a grant of Common Stock in lieu of 50% of their bonus otherwise payable to individuals with a title of Vice President or above. A recipient can request that the Compensation Committee pay a greater or lesser portion of the bonus in shares of Common Stock.

Prior to 2003, we accounted for our stock compensation in accordance with APB No. 25, "Accounting for Stock Issued to Employees", based upon the intrinsic value method. This method results in no compensation expense for Options issued with an exercise price equal to or exceeding the market value of the Common Stock on the date of grant. Effective January 1, 2003, we elected to account for our stock-based compensation in accordance with SFAS No. 123 and its amendment (SFAS No. 148), "Accounting for Stock Based Compensation", which will result in compensation expense being recorded based on the fair value of the Options and other equity awards issued. SFAS No. 148 provides three possible transition methods for changing to the fair value method. We have elected to use the modified-prospective method. This method requires that we recognize stock-based employee compensation cost from the beginning of the fiscal year in which the recognition provisions are first applied as if the fair value method had been used to account for all employee awards granted, or settled in fiscal years beginning after December 15, 1994. The following table illustrates the effect on net income and earnings per share as if the fair value method was applied to all outstanding and unvested awards in each period presented (amounts in thousands, except per share data):

	2003	2002	2001
	-----	-----	-----
Net income available for Common Shares as reported .....	\$27,014	\$36,445	\$32,083
Add: Stock-based compensation expense included in net income as reported .....	2,139	2,185	2,549
Deduct: Stock-based compensation expense determined under the fair value based method for all awards..	(2,139)	(2,086)	(2,203)
	-----	-----	-----
Pro forma net income available for Common Shares .....	\$27,014	\$36,544	\$32,429
	=====	=====	=====
Pro forma net income per Common Share - Basic .....	\$ 1.22	\$ 1.69	\$ 1.54

	=====	=====	=====
Pro forma net income per Common			
Share - Fully Diluted .....	\$ 1.20	\$ 1.65	\$ 1.50
	=====	=====	=====

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 14 - STOCK OPTION PLAN AND STOCK GRANTS (CONTINUED)

Restricted Stock Grants

In 1998, the Company awarded 233,500 Restricted Stock Grants to certain members of management of the Company. These Restricted Stock Grants vested over five years, but may be restricted for a period of up to ten years depending upon certain performance benchmarks tied to increases in funds from operations being met. The fair market value of these Restricted Stock Grants of approximately \$5.7 million as of the date of grant was treated in 1998 as deferred compensation and amortized in accordance with their vesting. The Company recognized compensation expense of approximately \$722,000, \$1.1 million and \$2.0 million related to these Restricted Stock Grants in 2003, 2002, and 2001, respectively. The balance of unamortized deferred compensation related to these Restricted Stock Grants is \$0 as of December 31, 2003.

In 1999, the Company awarded 65,000 Restricted Stock Grants to certain members of senior management of the Company. These Restricted Stock Grants vested over three years with one-half vesting in 1999. The fair market value of these Restricted Stock Grants of approximately \$1.5 million as of the date of grant was treated in 1999 as deferred compensation and amortized in accordance with their vesting. The Company recognized compensation expense of approximately \$0, \$0, and \$386,000 related to these Restricted Stock Grants in 2003, 2002, and 2001, respectively. The balance of unamortized deferred compensation related to these Restricted Stock Grants is \$0 as of December 31, 2003.

In 2000, the Company awarded 69,750 Restricted Stock Grants to certain members of senior management of the Company. These Restricted Stock Grants vested over three years with one-half vesting in 2000. The fair market value of these Restricted Stock Grants of approximately \$1.9 million as of the date of grant was treated in 2000 as deferred compensation and amortized in accordance with their vesting. The Company recognized compensation expense of approximately \$0, \$478,000, and \$478,000 related to these Restricted Stock Grants in 2003, 2002, and 2001, respectively. The balance of unamortized deferred compensation related to these Restricted Stock Grants is \$0 as of December 31, 2003.

In 2001, the Company awarded 43,000 Restricted Stock Grants to certain members of management of the Company. These Restricted Stock Grants vest over five years, but may be restricted for a period of up to ten years depending upon certain performance benchmarks tied to increases in funds from operations being met. The fair market value of these Restricted Stock Grants of approximately \$1.2 million as of the date of grant was treated in 2001 as deferred compensation and amortized in accordance with their vesting. The Company recognized compensation expense of approximately \$167,000, \$239,000 and \$239,000 related to these Restricted Stock Grants in 2003, 2002 and 2001, respectively. The balance of unamortized deferred compensation related to these Restricted Stock Grants is approximately \$335,000 as of December 31, 2003.

In 2002, the Company awarded 69,750 Restricted Stock Grants to certain members of senior management of the Company. These Restricted Stock Grants vest over three years, but may be restricted for a period of up to ten years depending upon certain performance benchmarks tied to increases in funds from operations being met. The fair market value of these Restricted Stock Grants of approximately \$2.2 million as of the date of grant was treated in 2002 as deferred compensation and amortized in accordance with their vesting. The Company recognized compensation expense of approximately \$380,000 and \$1.4

million related to these Restricted Stock Grants in 2003 and 2002, respectively. The balance of unamortized deferred compensation related to these Restricted Stock Grants is \$0 as of December 31, 2003.

In 2003, 2002, and 2001, the Company awarded 35,000, 16,000, and 16,000 Restricted Stock Grants, respectively, to directors with a fair market value of approximately \$733,000, \$376,000 and \$302,000 in 2003, 2002 and 2001 respectively. The Company recognized compensation expense of approximately \$470,000 related to these Restricted Stock Grants in 2003. The balance of unamortized deferred compensation related to the 2002 and 2001 Restricted Stock Grants is \$125,000 and \$0, respectively, as of December 31, 2003.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 14 - STOCK OPTION PLAN AND STOCK GRANTS (CONTINUED)

Stock Options

The fair value of each grant is estimated on the grant date using the Black-Scholes model. The following table includes the assumptions that were made and the estimated fair values:

ASSUMPTION	2003	2002	2001
	-----	-----	-----
		(pro forma)	(pro forma)
Dividend yield	5.6	6.3	6.3
Risk-free interest rate	3.5	3.5	5.5
Expected life	5 years	5 years	5 years
Expected volatility	.14	.19	.20
-----	-----	-----	-----
Estimated Fair Value of Options Granted	\$40,600	\$37,432	\$428,861

A summary of the Company's stock option activity, and related information for the years ended December 31, 2003, 2002 and 2001 follows:

	SHARES SUBJECT TO OPTIONS	WEIGHTED AVERAGE EXERCISE PRICE PER SHARE
	-----	-----
Balance at December 31, 2000	2,107,871	\$22.30
Options granted .....	177,150	30.03
Options exercised .....	(387,115)	19.98
Options canceled .....	(69,558)	25.04
	-----	
Balance at December 31, 2001	1,828,348	23.44
Options granted .....	20,000	33.55
Options exercised .....	(282,959)	20.48
Options canceled .....	(49,492)	24.94
	-----	
Balance at December 31, 2002	1,515,897	24.08
Options granted .....	20,000	32.67
Options exercised .....	(302,526)	21.06
Options canceled .....	(9,437)	25.60
	-----	
Balance at December 31, 2003	1,223,934	24.95
	=====	

The following table summarizes information regarding Options outstanding at

December 31, 2003:

RANGE OF EXERCISE PRICES	OPTIONS OUTSTANDING			OPTIONS EXERCISABLE	
	OPTIONS	WEIGHTED AVERAGE CONTRACTUAL LIFE (IN YEARS)	WEIGHTED AVERAGE EXERCISE PRICE	OPTIONS	WEIGHTED AVERAGE EXERCISE PRICE
\$15.63 to \$21.38	183,500	2.4	\$18.85	183,500	\$18.85
\$22.00 to \$24.38	412,737	4.7	\$23.55	412,737	\$23.55
\$25.06 to \$26.99	446,443	5.4	\$26.23	446,443	\$26.23
\$30.65 to \$33.55	181,254	8.1	\$31.19	112,958	\$31.11
	-----	---	----	-----	-----
	1,223,934	5.1	\$24.95	1,155,638	\$24.58
	=====	===	=====	=====	=====

As of December 31, 2003, 2002 and 2001, 2,148,524 shares, 2,194,087 shares and 2,250,345 shares remained available for grant, respectively; of these 1,036,853, shares, 1,071,853 shares and 1,157,603 shares, respectively, remained available for Restricted Stock Grants.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 15 - PREFERRED STOCK

The Company's Board of Directors is authorized under the Company's charter, without further stockholder approval, to issue, from time to time, in one or more series, 10,000,000 shares of \$.01 par value preferred stock (the "Preferred Stock"), with specific rights, preferences and other attributes as the Board may determine, which may include preferences, powers and rights that are senior to the rights of holders of the Company's Common Stock. However, under certain circumstances, the issuance of preferred stock may require stockholder approval pursuant to the rules and regulations of The New York Stock Exchange. As of December 31, 2003 and 2002, no Preferred Stock was issued by the Company.

NOTE 16 - SAVINGS PLAN

The Company has a qualified retirement plan, with a salary deferral feature designed to qualify under Section 401 of the Code (the "401(k) Plan"), to cover its employees and those of its Subsidiaries, if any. The 401(k) Plan permits eligible employees of the Company and those of any Subsidiary to defer up to 19% of their eligible compensation on a pre-tax basis subject to certain maximum amounts. In addition, the Company will match dollar-for-dollar the participant's contribution up to 4% of the participant's eligible compensation.

In addition, amounts contributed by the Company will vest, on a prorated basis, according to the participant's vesting schedule. After five years of employment with the Company, the participants will be 100% vested for all amounts contributed by the Company. Additionally, a discretionary profit sharing component of the 401(k) Plan provides for a contribution to be made annually for each participant in an amount, if any, as determined by the Company. All employee contributions are 100% vested. The Company's contribution to the 401(k) Plan was approximately \$240,000, \$248,000, and \$353,000, for the years ended December 31, 2003, 2002, and 2001, respectively.

The Company has established a supplemental executive retirement plan (the "SERP") to provide certain officers and directors an opportunity to defer a portion of their eligible compensation in order to save for retirement and for the education of their children. The SERP is restricted to investments in Company common shares, certain marketable securities that have been specifically approved, or cash equivalents. In accordance with EITF 97-14 "Accounting for Deferred Compensation Arrangements Where Amounts Earned Are Held in a Rabbi Trust and Invested", the deferred compensation liability represented in the SERP and the securities issued to fund such deferred compensation liability are consolidated by the Company on the balance sheet. Assets held in the SERP are

included in other assets and are classified as trading securities and reported at fair value, with unrealized gains and losses included in earnings. Company shares held in the SERP are classified in stockholders equity due to the inability of the Company to repurchase these shares.

NOTE 17 - COMMITMENTS AND CONTINGENCIES

DEANZA SANTA CRUZ

The residents of DeAnza Santa Cruz Mobile Estates, a Property located in Santa Cruz, California, brought several actions opposing fees and charges in connection with water service at the Property. As a result of one action, the Company rebated approximately \$36,000 to the residents. The DeAnza Santa Cruz Homeowners Association ("HOA") then proceeded to a jury trial alleging these "overcharges" entitled them to an award of punitive damages. In January 1999, a jury awarded the HOA \$6.0 million in punitive damages. On December 21, 2001 the California Court of Appeal for the Sixth District reversed the \$6.0 million punitive damage award, the related award of attorneys' fees, and, as a result, all post-judgment interest thereon, on the basis that punitive damages are not available as a remedy for a statutory violation of the California Mobilehome Residency Law ("MRL"). The decision of the appellate court left the HOA, the plaintiff in this matter, with the right to seek a new trial in which it must prove its entitlement to either the statutory penalty and attorneys' fees available under the MRL or punitive damages based on causes of action for fraud, misrepresentation or other tort. In order to resolve this matter, the Company accrued for and agreed to pay \$201,000 to the HOA. This payment resolved the punitive damage claim. The HOA's attorney has made a motion asking for an award of attorneys' fees and costs in the amount of approximately \$1.5 million as a result of this resolution of the litigation. On April 2, 2003 the court awarded attorney's fees to the HOA's attorney in the amount of \$593,000 and court costs of approximately \$20,000. The Company has appealed this award and has not accrued for the amount in its consolidated financial statements.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 17 - COMMITMENTS AND CONTINGENCIES (CONTINUED)

OTHER CALIFORNIA RENT CONTROL LITIGATION

As part of the Company's effort to realize the value of its Properties subject to rent control, the Company has initiated lawsuits against several municipalities in California. The Company's goal is to achieve a level of regulatory fairness in California's rent control jurisdictions, and in particular those jurisdictions that prohibit increasing rents to market upon turnover. This regulatory feature, called vacancy control, allows tenants to sell their homes for a premium representing the value of the future discounted rent-controlled rents. In the Company's view, such regulation results in a transfer of the value of the Company's shareholders' land, which would otherwise be reflected in market rents, to tenants upon the sales of their homes in the form of an inflated purchase price that cannot be attributed to the value of the home being sold. As a result, in the Company's view, the Company loses the value of its asset and the selling tenant leaves the Community with a windfall premium. The Company has discovered through the litigation process that certain municipalities considered condemning the Company's Communities at values well below the value of the underlying land. In the Company's view, a failure to articulate market rents for sites governed by restrictive rent control would put the Company at risk for condemnation or eminent domain proceedings based on artificially reduced rents. Such a physical taking, should it occur, could represent substantial lost value to shareholders. The Company is cognizant of the need for affordable housing in the jurisdictions, but asserts that restrictive rent regulation with vacancy control does not promote this purpose because the benefits of such regulation are fully capitalized into the prices of the homes sold. The Company estimates that the annual rent subsidy to tenants in these jurisdictions is approximately \$15 million. In a more well-balanced regulatory environment, the Company would receive market rents that would

eliminate the subsidy and homes would trade at or near their intrinsic value.

In connection with such efforts, the Company recently announced it has entered into a settlement agreement with the City of Santa Cruz, California and that, pursuant to the settlement agreement, the City amended its rent control ordinance to exempt the Company's property from rent control as long as the Company offers a long term lease which gives the Company the ability to increase rents to market upon turnover and bases annual rent increases on the Consumer Price Index ("CPI"). The settlement agreement benefits the Company's shareholders by allowing them to receive the value of their investment in this Community through vacancy decontrol while preserving annual CPI based rent increases in this age restricted Property.

The Company's efforts to achieve a balanced regulatory environment incentivize tenant groups to file lawsuits against the Company seeking large damage awards. The homeowners association at Contempo Marin ("CMHOA"), a 396 site Property in San Rafael, California, sued the Company in December 2000 over a prior settlement agreement on a capital pass-through after the Company sued the City of San Rafael in October 2000 alleging its rent control ordinance is unconstitutional. In the Contempo Marin case, the CMHOA prevailed on a motion for summary judgment on an issue that permits the Company to collect only \$3.72 out of a monthly pass-through amount of \$7.50 that the Company believes had been agreed to by the CMHOA in a settlement agreement. The Company intends to vigorously defend this matter, which has been stayed pending a related state court appeal by the Company of an order dismissing its claims against the City of San Rafael. The Company believes that such lawsuits will be a consequence of the Company's efforts to change rent control since tenant groups actively desire to preserve the premium value of their homes in addition to the discounted rents provided by rent control. The Company has determined that its efforts to rebalance the regulatory environment despite the risk of litigation from tenant groups are necessary not only because of the \$15 million annual subsidy to tenants, but also because of the condemnation risk.

#### ELLENBURG COMMUNITIES

The Company and certain other parties entered into a settlement agreement (the "Settlement"), which was approved by the Los Angeles County Superior Court in April 2000. The Settlement resolved substantially all of the litigation and appeals involving the Ellenburg Properties, and transactions arising out of the Settlement closed on May 22, 2000. Only the appeal of one entity remained, the outcome of which was not expected to materially affect the Company.

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#### MANUFACTURED HOME COMMUNITIES, INC. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### NOTE 17 - COMMITMENTS AND CONTINGENCIES (CONTINUED)

#### ELLENBURG COMMUNITIES (CONTINUED)

In connection with the Ellenburg Acquisition, on September 8, 1999, Ellenburg Fund 20 ("Fund 20") filed a cross complaint in the Ellenburg dissolution proceeding against the Company and certain of its affiliates alleging causes of action for fraud and other claims in connection with the Ellenburg Acquisition. The Company subsequently successfully had the cross complaint against the Company and its affiliates dismissed with prejudice by the California Superior Court. However, Fund 20 appealed. Although this appeal was one not resolved by the Settlement, the California Court of Appeal dismissed Fund 20's substantive appeals on March 13, 2003 as moot. Fund 20 petitioned the California Supreme Court to review this decision which review was denied.

In October 2001, Fund 20 sued the Company and certain of its affiliates again, this time in Alameda County, California making substantially the same allegations. The Company obtained an injunction preventing the case from proceeding until the Fund 20 appeal is decided and other related proceedings in Arizona (from which the Company has already been dismissed with prejudice) are concluded. The Company obtained a court order enjoining Fund 20 from proceeding



with its Alameda County action.

In February, 2004, the Company entered into a settlement agreement with Fund 20 resolving all remaining matters at no cost to the Company and with mutual releases.

#### COUNTRYSIDE AT VERO BEACH

The Company has received letters dated June 17, 2002 and August 26, 2002 from Indian River County ("County"), claiming that the Company currently owes sewer impact fees in the amount of approximately \$518,000 with respect to the Property known as Countryside at Vero Beach, located in Vero Beach, Florida, purportedly under the terms of an agreement between the County and a prior owner of the Property. In response, the Company has advised the County that these fees are no longer due and owing as a result of a 1996 settlement agreement between the County and the prior owner of the Property, providing for the payment of \$150,000 to the County to discharge any further obligation for the payment of impact or connection fees for sewer service at the Property. The Company paid this settlement amount (with interest) to the County in connection with the Company's acquisition of the Property. Accordingly, the Company believes that the County's claims are without merit.

#### DELAWARE DECLARATORY JUDGMENT ACTION

In April 2002, the Company entered into a Stipulation and Consent Order to Cease and Desist (the "Consent Order") with the State of Delaware (the "State"). The Consent Order resolved various issues raised by the State concerning the terms of a new lease form used or proposed for use by the Company at certain of its Properties in Delaware. Among other provisions, the Consent Order contemplated that the Company would work with the State to develop and implement a new lease form for use in Delaware. The Consent Order expressly provided that nothing contained therein would preclude the Company from seeking declaratory relief from a court as to the legality or enforceability of any provisions which the Company might wish to incorporate in future leases.

Throughout the summer of 2002, the Company's Delaware legal counsel engaged in dialogue with representatives of the State concerning various matters, including the lease provisions to which the State had objected but which the Company wished to incorporate in future leases. Through this process, it became apparent that the parties could not reach agreement as to the legality or enforceability of the proposed lease provisions, and that the Company would need to seek declaratory relief from a court in order to resolve the matter, as contemplated by the Consent Order. Accordingly, on August 29, 2002, the Company filed a Petition for Declaratory Judgment and Other Relief (as amended, the "Petition") in Sussex County, Delaware Superior Court (the "Court").

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#### MANUFACTURED HOME COMMUNITIES, INC. NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### NOTE 17 - COMMITMENTS AND CONTINGENCIES (CONTINUED)

#### DELAWARE DECLARATORY JUDGMENT ACTION (CONTINUED)

In response to the filing of the Petition, on October 1, 2002, the State filed its Answer to Petition for Declaratory and Other Relief, and Counterclaims for Civil Enforcement and Contempt (as amended, "Answer and Counterclaim") with the Court. In the Answer and Counterclaim, the State sought, inter alia, restitution, statutory penalties, investigative costs and attorneys' fees under the Delaware Mobile Home Lots and Leases Act, the Consumer Fraud Act, the Uniform Deceptive Trade Practices Act and the Delaware Consumer Contracts law, and separately sought a finding of contempt and related contempt penalties for alleged violations of the Consent Order.

The Company filed a Motion to Dismiss Respondents' Counterclaims with the Court on October 29, 2002, and the State filed a Motion for Summary Judgment with the Court on November 15, 2002. On December 30, 2002, the Company filed a

First Amended Petition for Declaratory Judgment and Other Relief with the Court, and on January 31, 2003, the State filed an Amended Answer and Counterclaim with the Court.

On August 29, 2003, the Court issued its decision disposing of all pending claims in the litigation except one. Specifically, the Court held, inter alia, that (i) the Company may eliminate the rent cap formula from existing leases at certain of its Delaware Properties as the leases come up for renewal, (ii) certain lease provisions proposed by the Company may not be implemented or enforced under applicable state law, (iii) the change in water supplier at one of the Properties did not violate the leases at such Property, (iv) the Company did not violate the Consent Order by filing the Petition, and (v) the Company did not violate any state statutes as alleged by the State.

The August 29, 2003 decision left open the issue of whether the Company had violated the Consent Order by continuing to use the disputed lease form (but not enforce the provisions at issue) at one of its Properties following entry of the Consent Order (the Company believed that it had no choice but to continue to use this lease form until the State had approved a new form for use at the Property as contemplated by the Consent Order). On October 3, 2003, the Court issued its final order, finding that continued use of the disputed lease form, as to new tenants but not as to renewal tenants, following entry of the Consent Order constituted a violation thereof, and assessing a civil penalty in the amount of \$5,000.

On November 3, 2003, the State filed a Notice of Appeal with the Supreme Court of the State of Delaware, appealing a portion of the Court's order denying the State's Motion for Summary Judgment. The State's appeal is limited to the single issue of whether the Company has the right to eliminate "rent cap" provisions contained in certain existing leases upon automatic renewal of the leases in accordance with Delaware law. The appeal has been fully briefed, and oral argument in the matter is scheduled for March 16, 2004.

On November 14, 2003, the State filed a motion for Stay Pending Appeal with the Court, and on December 3, 2003, the Company filed its response opposing the motion. On December 16, 2003, the Court issued its order on the motion, holding that the Company may proceed to issue notices of default to tenants who fail to pay the full amount of their current rental obligations, but may not initiate eviction proceedings against such tenants until April 1, 2004, and may not enforce any such eviction order until the Supreme Court rules on the appeal.

OTHER

The Company is involved in various other legal proceedings arising in the ordinary course of business. Management believes that all proceedings herein described or referred to, taken together, are not expected to have a material adverse impact on the Company.

MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 18 - SUBSEQUENT EVENTS

Since December 31, 2003, we invested in 30 Properties as listed in the table below. The combined investment in these 30 properties was approximately \$137.6 million and was funded with monies held in short-term investments and additional debt. (amounts in millions, except for total sites)

CLOSING DATE	PROPERTY	LOCATION	TOTAL SITES	PURCHASE PRICE	DEBT	NET EQUITY
-----	-----	-----	-----	-----	-----	-----
ACQUISITIONS:						
January 15, 2004	O'Connell's(a)	Amboy, IL	668	\$ 6.6	\$ 5.0	\$1.6
January 30, 2004	Spring Gulch(b)	New Holland, PA	420	6.0	4.8	1.2
February 3, 2004	Paradise(c)	Mesa, AZ	950	25.0	20.0	5.0

February 18, 2004	Twin Lakes(d)	Chocowinity, NC	400	5.2	3.8	1.4
February 19, 2004	Lakeside(e)	New Carlisle, IN	95	1.7	---	1.7
February 5, 2004	Shangri La	Largo, FL	160	(f)	4.5	(f)
February 5, 2004	Terra Ceia	Palmetto, FL	203	(f)	2.6	(f)
February 5, 2004	Southernaire	Mt. Dora, FL	134	(f)	2.1	(f)
February 5, 2004	Sixth Avenue	Zephyrhills, FL	140	(f)	2.3	(f)
February 5, 2004	Suni Sands	Yuma, AZ	336	(f)	3.2	(f)
February 5, 2004	Topic's	Spring Hill, FL	230	(f)	2.2	(f)
February 5, 2004	Coachwood Colony	Leesburg, FL	200	(f)	4.3	(f)
February 5, 2004	Waterway	Cedar Point, NC	336	(f)	6.3	(f)
February 5, 2004	Desert Paradise	Yuma, AZ	260	(f)	1.5	(f)
February 5, 2004	Goose Creek	Newport, NC	598	(f)	12.6	(f)
MEZZANINE INVESTMENTS (g):						
February 3, 2004	Fiesta Grande I & II	Casa Grande, AZ	767	---	---	3.7
February 3, 2004	Tropical Palms	North Ft. Myers, FL	297	---	---	1.9
February 3, 2004	Island Vista Estates	North Ft. Myers, FL	617	---	---	4.6
February 3, 2004	Foothills West	Casa Grande, AZ	188	---	---	1.5
February 3, 2004	Capri	Yuma, AZ	300	---	---	2.1
February 3, 2004	Casita Verde	Casa Grande, AZ	192	---	---	1.2
February 3, 2004	Rambler's Rest	Venice, FL	647	---	---	6.2
February 3, 2004	Venture In	Show Low, AZ	389	---	---	2.4
February 3, 2004	Scenic	Asheville, NC	224	---	---	1.2
February 3, 2004	Clerbrook	Clermont, FL	1,255	---	---	3.9
February 3, 2004	Inlet Oaks	Murrells Inlet, SC	178	---	---	1.0
JOINT VENTURES (h):						
December 18, 2003	Lake Myers	Mocksville, NC	425	---	---	0.4
January 21, 2004	Pine Haven	Ocean View, NJ	625	---	---	0.4
January 27, 2004	Twin Mills	Howe, IN	501	---	---	0.2
February 10, 2004	Plymouth Rock	Elkhart Lake, WI	609	---	---	0.4

- (a) Property was purchased from O'Connell's Holding Corp. and O'Connell's, Inc.  
(b) Property was purchased from Spring Gulch, Inc.  
(c) Property was purchased from PRVR Limited Partnership.  
(d) Property was purchased from Twin Lakes Land, LLC and Twin Lakes Camping Resort, LLC.  
(e) Property was purchased from Don-Bar Family Limited Partnership.  
(f) The portfolio was acquired for a total purchase price of \$62 million and \$20.4 million of net equity. The transaction was funded partially through loans obtained on the individual properties as shown in the table.  
(g) On February 3, 2004, the Company invested approximately \$29.7 million in preferred equity in six entities controlled by Diversified Investments, Inc. ("Diversified"). In addition, the Company has invested approximately \$1.4 million in the Diversified entities managing these properties.  
(h) The Company invested approximately \$1.4 million with Diversified in four separate entities, each controlling a Property.

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MANUFACTURED HOME COMMUNITIES, INC.  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 19 - QUARTERLY FINANCIAL DATA (UNAUDITED)

The following is unaudited quarterly data for 2003 and 2002 (amounts in thousands, except for per share amounts):

2003	FIRST QUARTER 3/31	SECOND QUARTER 6/30	THIRD QUARTER 9/30	FOURTH QUARTER 12/31
----	-----	-----	-----	-----
Total revenues(a)	\$64,569	\$66,760	\$68,760	\$71,066
Income from continuing operations(a)	\$ 7,380	\$ 5,112	\$ 5,200	\$ (268)
Income from discontinued operations(a)	\$ 294	\$ 9,288	\$ 8	\$ --
Net income (loss) available to common shareholders	\$ 7,674	\$14,400	\$ 5,208	\$ (268)
Weighted average Common Shares outstanding - Basic	21,918	22,027	22,114	22,247
Weighted average Common Shares outstanding - Diluted	27,276	27,371	27,458	27,568
Net income (loss) per Common Share outstanding - Basic	\$ .35	\$ .65	\$ .24	\$ (.01)
Net income (loss) per Common Share outstanding - Diluted	\$ .34	\$ .64	\$ .23	\$ (.01)

- (a) Amounts may differ from previously disclosed amounts due to reclassification of discontinued operations.

2002	FIRST QUARTER 3/31	SECOND QUARTER 6/30	THIRD QUARTER 9/30	FOURTH QUARTER 12/31
Total revenues(a)	\$63,222	\$64,414	\$65,223	\$68,508
Income from continuing operations(a)	\$ 6,584	\$ 5,952	\$ 5,080	\$ 6,090
Income from discontinued operations(a)	\$ 531	\$ 486	\$ 1,632	\$10,090
Net income available to common shareholders	\$ 7,115	\$ 6,438	\$ 6,712	\$16,180
Weighted average Common Shares outstanding - Basic	21,433	21,563	21,676	21,794
Weighted average Common Shares outstanding - Diluted	27,508	27,664	27,693	27,678
Net income per Common Share outstanding - Basic	\$ 0.33	\$ 0.30	\$ 0.31	\$ 0.74
Net income per Common Share outstanding - Diluted	\$ 0.32	\$ 0.29	\$ 0.30	\$ 0.73

(a) Amounts may differ from previously disclosed amounts due to reclassification of discontinued operations.

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SCHEDULE II  
MANUFACTURED HOME COMMUNITIES, INC.  
VALUATION AND QUALIFYING ACCOUNTS  
DECEMBER 31, 2003

	BALANCE AT BEGINNING OF PERIOD	ADDITIONS		DEDUCTIONS (1)	BALANCE AT END OF PERIOD
		CHARGED TO INCOME	CHARGED TO OTHER ACCOUNTS		
For the year ended December 31, 2001:					
Allowance for doubtful accounts	\$300,000	\$426,579	\$---	(\$426,579)	\$300,000
For the year ended December 31, 2002:					
Allowance for doubtful accounts	\$300,000	\$940,565	\$---	(\$540,565)	\$700,000
For the year ended December 31, 2003:					
Allowance for doubtful accounts	\$700,000	\$820,822	\$---	(\$693,822)	\$827,000

(1) Deductions represent tenant receivables deemed uncollectible.

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SCHEDULE III  
MANUFACTURED HOME COMMUNITIES, INC.  
REAL ESTATE AND ACCUMULATED DEPRECIATION  
DECEMBER 31, 2003  
(AMOUNTS IN THOUSANDS)

Real Estate	Location	Encumbrances	Initial Cost to Company		Costs Capitalized Subsequent to Acquisition (Improvements)		
			Land	Depreciable Property	Land	Depreciable Property	
Apollo Village	Phoenix	AZ	4,009	932	3,219	0	515
Araby Acres	Yuma	AZ	3,250	1,440	4,345	0	0
The Highlands at Brentwood	Mesa	AZ	10,910	1,997	6,024	0	526
Carefree Manor	Phoenix	AZ	3,398	706	3,040	0	219
Casa del Sol #1	Peoria	AZ	10,445	2,215	6,467	0	874
Casa del Sol #2	Glendale	AZ	9,827	2,103	6,283	0	604
Casa del Sol #3	Glendale	AZ	11,188	2,450	7,452	0	334
Central Park	Phoenix	AZ	5,139	1,612	3,784	0	584
Countryside	Phoenix	AZ	3,787	2,056	6,241	0	171
Desert Skies	Phoenix	AZ	5,046	792	3,126	0	185
Fairview Manor	Tucson	AZ	5,114	1,674	4,708	0	1,113
Foothill	Yuma	AZ	1,350	459	1,402	0	0
Golden Sun	Scottsdale	AZ	3,029	1,678	5,049	0	27
Hacienda De Valencia	Mesa	AZ	5,676	833	2,701	0	1,659
Palm Shadows	Glendale	AZ	8,480	1,400	4,218	0	368
Sedona Shadows	Sedona	AZ	2,521	1,096	3,431	0	391
Sunrise Heights	Phoenix	AZ	5,636	1,000	3,016	0	369
The Mark	Mesa	AZ	8,943	1,354	4,660	6	793
The Meadows	Tempe	AZ	12,060	2,613	7,887	0	533

Whispering Palms .....	Phoenix	AZ	3,219	670	2,141	0	161
California Hawaiian .....	San Jose	CA	27,449	5,825	17,755	0	1,532
Colony Park .....	Ceres	CA	5,826	890	2,837	0	262
Concord Cascade .....	Pacheco	CA	5,291	985	3,016	0	840
Contempo Marin .....	San Rafael	CA	25,669	4,787	16,379	0	2,318
Coralwood .....	Modesto	CA	6,200	0	5,047	0	245
Date Palm Country Club ...	Cathedral City	CA	15,340	4,138	14,064	(23)	2,755
Date Palm .....	Cathedral City	CA	0	0	216	0	26
Four Seasons .....	Fresno	CA	0	756	2,348	0	199
Laguna Lake .....	San Luis Obispo	CA	5,128	2,845	6,520	0	241
Lamplighter .....	Spring Valley	CA	3,806	633	2,201	0	648
Meadowbrook .....	Santee	CA	0	4,345	12,528	0	1,277
Monte del Lago .....	Castroville	CA	7,845	3,150	9,469	0	1,026
Quail Meadows .....	Riverbank	CA	5,280	1,155	3,469	0	259
Nicholson Plaza .....	San Jose	CA	0	0	4,512	0	53
Rancho Mesa .....	El Cajon	CA	9,600	2,130	6,389	0	204

Gross Amount Carried  
at Close of  
Period 12/31/03

Real Estate	Location		Land	Depreciable Property	Total	Accumulated Depreciation	Date of Acquisition
Apollo Village .....	Phoenix	AZ	932	3,734	4,666	(1,163)	1994
Araby Acres .....	Yuma	AZ	1,440	4,345	5,785	(12)	2003
The Highlands at Brentwood	Mesa	AZ	1,997	6,550	8,547	(2,315)	1993
Carefree Manor .....	Phoenix	AZ	706	3,259	3,965	(683)	1998
Casa del Sol #1 .....	Peoria	AZ	2,215	7,341	9,556	(1,355)	1996
Casa del Sol #2 .....	Glendale	AZ	2,103	6,887	8,990	(1,248)	1996
Casa del Sol #3 .....	Glendale	AZ	2,450	7,786	10,236	(1,448)	1998
Central Park .....	Phoenix	AZ	1,612	4,368	5,980	(2,781)	1983
Countryside .....	Phoenix	AZ	2,056	6,412	8,468	(284)	2002
Desert Skies .....	Phoenix	AZ	792	3,311	4,103	(693)	1998
Fairview Manor .....	Tucson	AZ	1,674	5,821	7,495	(1,122)	1998
Foothill .....	Yuma	AZ	459	1,402	1,861	(4)	2003
Golden Sun .....	Scottsdale	AZ	1,678	5,076	6,754	(229)	2002
Hacienda De Valencia .....	Mesa	AZ	833	4,360	5,193	(2,248)	1984
Palm Shadows .....	Glendale	AZ	1,400	4,586	5,986	(1,667)	1993
Sedona Shadows .....	Sedona	AZ	1,096	3,822	4,918	(835)	1997
Sunrise Heights .....	Phoenix	AZ	1,000	3,385	4,385	(1,104)	1994
The Mark .....	Mesa	AZ	1,360	5,453	6,813	(1,691)	1994
The Meadows .....	Tempe	AZ	2,613	8,420	11,033	(2,787)	1994
Whispering Palms .....	Phoenix	AZ	670	2,302	2,972	(493)	1998
California Hawaiian .....	San Jose	CA	5,825	19,287	25,112	(4,206)	1997
Colony Park .....	Ceres	CA	890	3,099	3,989	(776)	1998
Concord Cascade .....	Pacheco	CA	985	3,856	4,841	(2,317)	1983
Contempo Marin .....	San Rafael	CA	4,787	18,697	23,484	(5,712)	1994
Coralwood .....	Modesto	CA	0	5,292	5,292	(1,149)	1997
Date Palm Country Club ...	Cathedral City	CA	4,115	16,819	20,934	(5,038)	1994
Date Palm .....	Cathedral City	CA	0	242	242	(85)	1994
Four Seasons .....	Fresno	CA	756	2,547	3,303	(566)	1997
Laguna Lake .....	San Luis Obispo	CA	2,845	6,761	9,606	(1,461)	1998
Lamplighter .....	Spring Valley	CA	633	2,849	3,482	(1,739)	1983
Meadowbrook .....	Santee	CA	4,345	13,805	18,150	(2,587)	1998
Monte del Lago .....	Castroville	CA	3,150	10,495	13,645	(2,213)	1997
Quail Meadows .....	Riverbank	CA	1,155	3,728	4,883	(712)	1998
Nicholson Plaza .....	San Jose	CA	0	4,565	4,565	(970)	1997
Rancho Mesa .....	El Cajon	CA	2,130	6,593	8,723	(1,223)	1998

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SCHEDULE III  
MANUFACTURED HOME COMMUNITIES, INC.  
REAL ESTATE AND ACCUMULATED DEPRECIATION  
DECEMBER 31, 2003  
(AMOUNTS IN THOUSANDS)

Real Estate	Location		Encumbrances	Initial Cost to Company		Costs Capitalized Subsequent to Acquisition (Improvements)	
				Land	Depreciable Property	Land	Depreciable Property
Rancho Valley	El Cajon	CA	3,668	685	1,902	0	769
Royal Holiday	Hemet	CA	0	778	2,643	0	270
Royal Oaks	Visalia	CA	0	602	1,921	0	274
DeAnza Santa Cruz	Santa Cruz	CA	10,456	2,103	7,201	0	5,514
Santiago Estates	Sylmar	CA	16,205	3,562	10,767	0	633
Sea Oaks	Los Osos	CA	0	871	2,703	0	243
Sunshadow	San Jose	CA	0	0	5,707	0	129
Westwinds (4 properties)	San Jose	CA	0	0	17,616	0	4,988
Bear Creek	Sheridan	CO	4,880	1,100	3,359	0	209
Cimarron	Broomfield	CO	4,653	863	2,790	0	604
Golden Terrace	Golden	CO	4,245	826	2,415	0	643
Golden Terrace West	Golden	CO	2,400	750	2,265	0	548
Golden Terrace South	Golden	CO	8,432	1,694	5,065	0	955
Hillcrest Village	Aurora	CO	10,581	1,912	5,202	289	2,277
Holiday Hills	Denver	CO	14,856	2,159	7,780	0	3,652
Holiday Village CO	Co. Springs	CO	3,536	567	1,759	0	909
Pueblo Grande	Pueblo	CO	1,890	241	1,069	0	419

Woodland Hills	Denver	CO	7,499	1,928	4,408	0	2,391
Aspen Meadows	Rehoboth Beach	DE	5,620	1,148	3,460	0	192
Camelot Meadows	Rehoboth Beach	DE	7,400	527	2,058	1,251	3,643
Mariners Cove	Millsboro	DE	16,452	990	2,971	0	3,393
McNicol	Rehoboth Beach	DE	2,710	563	1,710	0	58
Sweetbriar	Rehoboth Beach	DE	3,040	498	1,527	0	268
Waterford Estates	Bear	DE	30,954	5,250	16,202	0	479
Whispering Pines	Lewes	DE	9,871	1,536	4,609	0	911
Maralago Cay	Lantana	FL	21,600	5,325	15,420	0	2,613
Bay Indies	Venice	FL	44,524	10,483	31,559	10	3,054
Bay Lake Estates	Nokomis	FL	3,708	990	3,390	0	875
Breezy Hill	Pompano Beach	FL	10,281	5,510	16,555	0	46
Buccaneer	N. Ft. Myers	FL	13,902	4,207	14,410	0	1,085
Bulow Village Resort	Flagler Beach	FL	0	0	228	0	37
Bulow Village	Flagler Beach	FL	10,404	3,637	949	0	5,106
Carriage Cove	Daytona Beach	FL	8,084	2,914	8,682	0	756
Coral Cay	Margate	FL	20,195	5,890	20,211	0	2,518
Coquina	St Augustine	FL	0	5,286	5,545	0	5,276
Meadows at Countrywood	Plant City	FL	18,292	4,514	13,175	0	2,575

Gross Amount Carried  
at Close of  
Period 12/31/03

Real Estate	Location		Depreciable		Total	Accumulated Depreciation	Date of Acquisition
			Land	Property			
Rancho Valley	El Cajon	CA	685	2,671	3,356	(1,524)	1983
Royal Holiday	Hemet	CA	778	2,913	3,691	(497)	1998
Royal Oaks	Visalia	CA	602	2,195	2,797	(470)	1997
DeAnza Santa Cruz	Santa Cruz	CA	2,103	12,715	14,818	(2,366)	1994
Santiago Estates	Sylmar	CA	3,562	11,400	14,962	(2,317)	1998
Sea Oaks	Los Osos	CA	871	2,946	3,817	(616)	1997
Sunshadow	San Jose	CA	0	5,836	5,836	(1,259)	1997
Westwinds (4 properties)	San Jose	CA	0	22,604	22,604	(4,951)	1997
Bear Creek	Sheridan	CO	1,100	3,568	4,668	(705)	1998
Cimarron	Broomfield	CO	863	3,394	4,257	(2,128)	1983
Golden Terrace	Golden	CO	826	3,058	3,884	(1,751)	1983
Golden Terrace South	Golden	CO	750	2,813	3,563	(611)	1997
Golden Terrace West	Golden	CO	1,694	6,020	7,714	(3,184)	1986
Hillcrest Village	Aurora	CO	2,201	7,479	9,680	(4,535)	1983
Holiday Hills	Denver	CO	2,159	11,432	13,591	(6,672)	1983
Holiday Village CO	Co. Springs	CO	567	2,668	3,235	(1,462)	1983
Pueblo Grande	Pueblo	CO	241	1,488	1,729	(904)	1983
Woodland Hills	Denver	CO	1,928	6,799	8,727	(2,272)	1994
Aspen Meadows	Rehoboth Beach	DE	1,148	3,652	4,800	(762)	1998
Camelot Meadows	Rehoboth Beach	DE	1,778	5,701	7,479	(1,119)	1998
Mariners Cove	Millsboro	DE	990	6,364	7,354	(2,594)	1987
McNicol	Rehoboth Beach	DE	563	1,768	2,331	(350)	1998
Sweetbriar	Rehoboth Beach	DE	498	1,795	2,293	(427)	1998
Waterford Estates	Bear	DE	5,250	16,681	21,931	(2,679)	1996
Whispering Pines	Lewes	DE	1,536	5,520	7,056	(2,638)	1998
Maralago Cay	Lantana	FL	5,325	18,033	23,358	(3,579)	1997
Bay Indies	Venice	FL	10,493	34,613	45,106	(10,939)	1994
Bay Lake Estates	Nokomis	FL	990	4,265	5,255	(1,287)	1994
Breezy Hill	Pompano Beach	FL	5,510	16,601	22,111	(735)	2002
Buccaneer	N. Ft. Myers	FL	4,207	15,495	19,702	(4,795)	1994
Bulow Village Resort	Flagler Beach	FL	0	265	265	(31)	2001
Bulow Village	Flagler Beach	FL	3,637	6,055	9,692	(1,170)	1994
Carriage Cove	Daytona Beach	FL	2,914	9,438	12,352	(1,955)	1998
Coral Cay	Margate	FL	5,890	22,729	28,619	(6,732)	1994
Coquina	St Augustine	FL	5,286	10,821	16,107	(1,155)	1999
Meadows at Countrywood	Plant City	FL	4,514	15,750	20,264	(2,949)	1998

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SCHEDULE III  
MANUFACTURED HOME COMMUNITIES, INC.  
REAL ESTATE AND ACCUMULATED DEPRECIATION  
DECEMBER 31, 2003  
(AMOUNTS IN THOUSANDS)

Real Estate	Location		Encumbrances	Initial Cost to Company		Costs Capitalized Subsequent to Acquisition (Improvements)	
				Land	Depreciable Property	Land	Depreciable Property
Country Place	New Port Richey	FL	8,500	663	0	18	7,095
Country Side North	Vero Beach	FL	17,347	3,711	11,133	0	1,597
Down Yonder	Largo	FL	7,776	2,652	7,981	0	53
East Bay Oaks	Largo	FL	5,532	1,240	3,322	0	499
Eldorado Village	Largo	FL	3,910	778	2,341	0	458
Glen Ellen	Clearwater	FL	2,440	627	1,882	0	22
Grand Island	Grand Island	FL	0	1,723	5,208	125	1,711
Hacienda Village	New Port Richey	FL	10,028	4,362	13,088	0	192
Harbor View	New Port Richey	FL	8,053	4,045	12,146	0	48
Heritage Village	Vero Beach	FL	13,520	2,403	7,259	0	631
Highland Wood	Pompano Beach	FL	2,408	1,043	3,130	0	4
Hillcrest	Clearwater	FL	4,297	1,278	3,928	0	647
Holiday Ranch	Largo	FL	3,835	925	2,866	0	191

Holiday Village FL	Vero Beach	FL	0	350	1,374	0	132
Holiday Village	Ormond Beach	FL	7,049	2,610	7,837	0	62
Indian Oaks	Rockledge	FL	4,449	1,089	3,376	0	712
Lake Fairways	N. Ft. Myers	FL	30,460	6,075	18,134	35	1,376
Lake Haven	Dunedin	FL	7,862	1,135	4,047	0	2,011
Lakewood Village	Melbourne	FL	9,818	1,862	5,627	0	557
Lighthouse Pointe	Port Orange	FL	12,701	2,446	7,483	23	816
Mid-Florida Lakes	Leesburg	FL	21,815	5,997	20,635	0	4,284
Oak Bend	Ocala	FL	5,772	850	2,572	0	850
Pickwick	Port Orange	FL	10,438	2,803	8,870	0	474
Pine Lakes	N. Ft. Myers	FL	31,464	6,306	14,579	21	5,311
Sherwood Forest	Kissimmee	FL	27,355	4,852	14,596	0	3,531
Sherwood Forest Resort	Kissimmee	FL	0	2,870	3,621	568	1,287
Silk Oak	Clearwater	FL	3,854	1,670	5,028	0	36
Southern Palms	Eustis	FL	5,727	2,169	5,884	0	1,471
Spanish Oaks	Ocala	FL	7,164	2,250	6,922	0	847
Oaks at Countrywood	Plant City	FL	1,318	1,111	2,513	(265)	1,325
The Heritage	N. Ft. Myers	FL	9,791	1,438	4,371	346	3,030
The Lakes at Countrywood	Plant City	FL	9,711	2,377	7,085	0	753
The Meadows, FL	Palm Beach Gardens	FL	6,106	3,229	9,870	0	1,088
Toby's	Arcadia	FL	0	1,093	3,280	0	0
Windmill Manor	Bradenton	FL	8,022	2,153	6,125	0	1,058
Windmill Village - Ft. Myers	N. Ft. Myers	FL	8,835	1,417	5,440	0	1,226

Gross Amount Carried  
at Close of  
Period 12/31/03

Real Estate	Location		Land	Depreciable Property	Total	Accumulated Depreciation	Date of Acquisition
Country Place	New Port Richey	FL	681	7,095	7,776	(2,539)	1986
Country Side North	Vero Beach	FL	3,711	12,730	16,441	(2,709)	1998
Down Yonder	Largo	FL	2,652	8,034	10,686	(359)	1998
East Bay Oaks	Largo	FL	1,240	3,821	5,061	(2,438)	1983
Eldorado Village	Largo	FL	778	2,799	3,577	(1,746)	1983
Glen Ellen	Clearwater	FL	627	1,904	2,531	(70)	2002
Grand Island	Grand Island	FL	1,848	6,919	8,767	(621)	2001
Hacienda Village	New Port Richey	FL	4,362	13,280	17,642	(476)	2002
Harbor View	New Port Richey	FL	4,045	12,194	16,239	(542)	2002
Heritage Village	Vero Beach	FL	2,403	7,890	10,293	(2,492)	1994
Highland Wood	Pompano Beach	FL	1,043	3,134	4,177	(139)	2002
Hillcrest	Clearwater	FL	1,278	4,575	5,853	(1,023)	1998
Holiday Ranch	Largo	FL	925	3,057	3,982	(638)	1998
Holiday Village FL	Vero Beach	FL	350	1,506	1,856	(336)	1998
Holiday Village	Ormond Beach	FL	2,610	7,899	10,509	(354)	2002
Indian Oaks	Rockledge	FL	1,089	4,088	5,177	(905)	1998
Lake Fairways	N. Ft. Myers	FL	6,110	19,510	25,620	(5,849)	1994
Lake Haven	Dunedin	FL	1,135	6,058	7,193	(3,060)	1983
Lakewood Village	Melbourne	FL	1,862	6,184	8,046	(1,984)	1994
Lighthouse Pointe	Port Orange	FL	2,469	8,299	10,768	(1,730)	1998
Mid-Florida Lakes	Leesburg	FL	5,997	24,919	30,916	(7,209)	1994
Oak Bend	Ocala	FL	850	3,422	4,272	(1,110)	1993
Pickwick	Port Orange	FL	2,803	9,344	12,147	(1,831)	1998
Pine Lakes	N. Ft. Myers	FL	6,327	19,890	26,217	(5,887)	1994
Sherwood Forest	Kissimmee	FL	4,852	18,127	22,979	(3,404)	1998
Sherwood Forest Resort	Kissimmee	FL	3,438	4,908	8,346	(877)	1998
Silk Oak	Clearwater	FL	1,670	5,064	6,734	(184)	2002
Southern Palms	Eustis	FL	2,169	7,355	9,524	(1,381)	1998
Spanish Oaks	Ocala	FL	2,250	7,769	10,019	(2,551)	1993
Oaks at Countrywood	Plant City	FL	846	3,838	4,684	(549)	1998
The Heritage	N. Ft. Myers	FL	1,784	7,401	9,185	(2,191)	1993
The Lakes at Countrywood	Plant City	FL	2,377	7,838	10,215	(766)	2001
The Meadows, FL	Palm Beach Gardens	FL	3,229	10,958	14,187	(1,695)	1999
Toby's	Arcadia	FL	1,093	3,280	4,373	(9)	2003
Windmill Manor	Bradenton	FL	2,153	7,183	9,336	(1,350)	1998
Windmill Village - Ft. Myers	N. Ft. Myers	FL	1,417	6,666	8,083	(4,108)	1983

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SCHEDULE III  
MANUFACTURED HOME COMMUNITIES, INC.  
REAL ESTATE AND ACCUMULATED DEPRECIATION  
DECEMBER 31, 2003  
(AMOUNTS IN THOUSANDS)

Real Estate	Location	Encumbrances	Initial Cost to Company		Costs Capitalized Subsequent to Acquisition (Improvements)		
			Land	Depreciable Property	Land	Depreciable Property	
Winds of St. Armands North (fka Windmill North)	Sarasota	FL	8,589	1,523	5,063	0	1,272
Winds of St. Armands South (fka Windmill South)	Sarasota	FL	5,486	1,106	3,162	0	751





Real Estate	Location	Land	Depreciable Property	Total	Accumulated Depreciation	Date of Acquisition
Realty Systems, Inc.		0	4,191	4,191	0	2002
Management Business		0	9,409	9,409	(8,349)	1990
		\$282,803	\$1,032,293	1,301,505	(\$272,497)	

NOTES:

- (1) For depreciable property, the Company uses a 30-year estimated life for buildings acquired and structural and land improvements, a ten-to-fifteen year estimated life for building upgrades and a three-to-seven year estimated life for furniture and fixtures.
- (2) The schedule excludes Properties in which the Company has a non-controlling joint venture interest and accounts for using the equity method of accounting.
- (3) The balance of furniture and fixtures included in the total amounts was approximately \$21.3 million as of December 31, 2003.
- (4) The aggregate cost of land and depreciable property for Federal income tax purposes was approximately \$1.2 billion, as of December 31, 2003.
- (5) All Properties were acquired, except for Country Place Village, which was constructed.

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SCHEDULE III  
MANUFACTURED HOME COMMUNITIES, INC.  
REAL ESTATE AND ACCUMULATED DEPRECIATION  
DECEMBER 31, 2003  
(AMOUNTS IN THOUSANDS)

The changes in total real estate for the years ended December 31, 2003, 2002 and 2001 were as follows:

	2003	2002	2001
Balance, beginning of year .....	\$1,296,007	\$1,238,138	\$1,218,176
Acquisitions(1) .....	12,116	107,138	17,770
Improvements .....	20,960	24,491	23,188
Dispositions(2) and other .....	(13,987)	(73,760)	(20,996)
Balance, end of year .....	\$1,315,096	\$1,296,007	\$1,238,138

- (1) Acquisitions for the year ended December 31, 2002 include the non-cash assumption by the Company of \$47.9 million of mortgage debt.
- (2) Dispositions and other for 2003 includes non-cash capitalization of legal fees of \$5.3 million related to DeAnza Santa Cruz (see Note 5).

The changes in accumulated depreciation for the years ended December 31, 2003, 2002 and 2001 were as follows:

	2003	2002	2001
Balance, beginning of year .....	\$238,098	\$211,878	\$181,580
Depreciation expense .....	39,409	37,188	35,205
Dispositions and other .....	(5,010)	(10,968)	(4,907)
Balance, end of year .....	\$272,497	\$238,098	\$211,878

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FOURTH AMENDED AND RESTATED  
CREDIT AGREEMENT  
(REVOLVING FACILITY)

AMONG

MHC OPERATING LIMITED PARTNERSHIP,  
AN ILLINOIS LIMITED PARTNERSHIP,  
AS BORROWER,

MANUFACTURED HOME COMMUNITIES, INC.,  
A MARYLAND CORPORATION,  
THE REIT

AND

THE FINANCIAL INSTITUTIONS PARTY HERETO, AS LENDERS

TOGETHER WITH THOSE ASSIGNEES  
BECOMING PARTIES HERETO PURSUANT  
TO SECTION 11.13, AS LENDERS,

WELLS FARGO BANK, N.A.  
AS ADMINISTRATIVE AGENT, SOLE LEAD ARRANGER,  
SWINGLINE LENDER AND ISSUING LENDER,

BANK OF AMERICA, N.A.,  
AS SYNDICATION AGENT,

AND

LASALLE BANK NATIONAL ASSOCIATION,  
AS DOCUMENTATION AGENT

DATED AS OF DECEMBER 11, 2003

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EXHIBITS

A	-	Assignment and Assumption
B	-	REIT Guaranty
C	-	[Intentionally Deleted]
D	-	Revolving Loan Notes
E	-	Swingline Note
F	-	Qualifying Unencumbered Properties
G	-	Letter of Credit Note
H	-	Letter of Credit Application
I	-	Notice of Borrowing
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SCHEDULES

5.01(c)	-	Ownership of Borrower
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5.01(w)	-	Subsidiaries and Investment Affiliates

FOURTH AMENDED AND RESTATED CREDIT AGREEMENT

THIS FOURTH AMENDED AND RESTATED CREDIT AGREEMENT is dated as of December 11, 2003 (as amended, supplemented or modified from time to time, the "Agreement") and is among MHC Operating Limited Partnership, an Illinois limited partnership ("Borrower"), Manufactured Home Communities, Inc., a Maryland corporation (the "REIT"), each of the Lenders, as hereinafter defined, Wells Fargo Bank, N.A ("Wells Fargo") in its capacity as Agent, as Sole Lead Arranger, as Swingline Lender, as Issuing Lender and as a Lender, Bank of America, N.A., as Syndication Agent and as a Lender, LaSalle Bank National Association, as Documentation Agent and as a Lender, and SouthTrust, N.A., as a Lender.

RECITALS

A. Borrower, the REIT and Wells Fargo Realty Advisors Funding Incorporated ("WFRF"), in its capacity as Agent and as the sole Lender, have previously entered into that certain Credit Agreement dated as of August 16, 1994 (the "Original Credit Agreement").

B. The Original Credit Agreement was amended and restated in its entirety by that certain First Amended and Restated Credit Agreement dated as of September 26, 1994 (the "First Amended Credit Agreement") by and among Borrower, the REIT, WFRF, as Agent and as a Lender, and Bank of America Illinois, as Co-Agent and as a Lender.

C. The First Amended Credit Agreement was amended and restated in its entirety by that certain Second Amended and Restated Credit Agreement dated as of April 28, 1998 (the "Second Amended Credit Agreement") by and among Borrower, the REIT, Wells Fargo (as successor in interest to WFRF), as Agent, Swingline Lender, Issuing Lender, and a Lender, Bank of America National Trust and Savings Association, as Syndication Agent and as a Lender, Morgan Guaranty Trust Company of New York, as Documentation Agent and as a Lender, and Commerzbank Aktiengesellschaft, New York Branch, as a Lender.

D. The Second Amended Credit Agreement was amended and restated in its entirety by that certain Third Amended and Restated Credit Agreement dated as of February 11, 2002 (as amended as described below, the "Existing Credit Agreement") by and among Borrower, the REIT, Wells Fargo (as

successor in interest to WFRAF), as Agent, Swingline Lender, Issuing Lender, and a Lender, Bank of America, N.A., as Syndication Agent and as a Lender, LaSalle Bank National Association, as Documentation Agent and as a Lender, and Commerzbank Aktiengesellschaft, New York Branch, as a Lender.

E. Pursuant to that certain Assignment and Assumption, dated as of August 30, 2002, by and between Bank of America, N.A. and SouthTrust, N.A., Bank of America, N.A. assigned to SouthTrust, N.A. a 10.000000000% interest in the Loan and the Facility, as defined in the Existing Credit Agreement.

F. Pursuant to that certain First Amendment to Third Amended and Restated Credit Agreement, dated as of the date hereof, the maximum amount of the Facility (as defined in the Existing Credit Agreement) was reduced and the Commitment of Commerzbank Aktiengesellschaft, New York Branch, was terminated.

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G. Borrower, the REIT, Wells Fargo, as Agent, Sole Lead Arranger, Swingline Lender, Issuing Lender and as a Lender, Bank of America, N.A., as Syndication Agent and as a Lender, LaSalle Bank National Association, as Documentation Agent and as a Lender and the other Lenders desire to further amend and restate the Existing Credit Agreement in its entirety to make certain modifications as hereinafter set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

#### AGREEMENT

#### ARTICLE I. DEFINITIONS

1.01 Certain Defined Terms. The following terms used in this Agreement shall have the following meanings (such meanings to be applicable, except to the extent otherwise indicated in a definition of a particular term, both to the singular and the plural forms of the terms defined):

"Accommodation Obligations" as applied to any Person, means any obligation, contingent or otherwise, of that Person in respect of which that Person is liable for any Indebtedness or other obligation or liability of another Person, including without limitation and without duplication (i) any such Indebtedness, obligation or liability directly or indirectly guaranteed, endorsed (otherwise than for collection or deposit in the ordinary course of business), co-made or discounted or sold with recourse by that Person, or in respect of which that Person is otherwise directly or indirectly liable, including Contractual Obligations (contingent or otherwise) arising through any agreement to purchase, repurchase or otherwise acquire such Indebtedness, obligation or liability or any security therefor, or to provide funds for the payment or discharge thereof (whether in the form of loans, advances, stock purchases, capital contributions or otherwise), or to maintain solvency, assets, level of income, or other financial condition, or to make payment other than for value received and (ii) any obligation of such Person arising through such Person's status as a general partner of a general or limited partnership with respect to any Indebtedness, obligation or liability of such general or limited partnership.

"Accountants" means any nationally recognized independent accounting firm.

"Adjusted Asset Value" means, as of any date of determination, (i) for any Property for which an acquisition or disposition by Borrower or any Subsidiary has not occurred in the Fiscal Quarter most recently ended as of such

date, the quotient of EBITDA attributable to such Property in a manner reasonably acceptable to Agent for the then most recently ended twelve (12) calendar month period divided by seven hundred fifty ten-thousandths (0.0750), and (ii) for any Property which has been acquired by Borrower or any Subsidiary in the Fiscal Quarter most recently ended as of such date, the Net Price of the Property paid by Borrower or such Subsidiary for such Property.

"Affiliates" as applied to any Person, means any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For purposes of this definition, "control" (including with correlative meanings, the terms "controlling,"

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"controlled by" and "under common control with"), as applied to any Person, means (a) the possession, directly or indirectly, of the power to vote twenty-five percent (25%) or more of the Securities having voting power for the election of directors of such Person or otherwise to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting Securities or by contract or otherwise, (b) the ownership of a general partnership interest in such Person or (c) the ownership of twenty-five percent (25%) or more of the limited partnership interests (or other ownership interests with similarly limited voting rights) in such Person; provided, however, that in no event shall the Affiliates of Borrower or any Subsidiary or any Investment Affiliate include Persons holding direct or indirect ownership interests in the REIT or any other real estate investment trust which holds a general partnership interest in Borrower if such Person does not otherwise constitute an "Affiliate" hereunder; provided, further, that the REIT and Borrower shall at all times be deemed Affiliates of each other.

"Agent" means Wells Fargo in its capacity as administrative agent for the Lenders under this Agreement, and shall include any successor Agent appointed pursuant hereto and shall be deemed to refer to Wells Fargo in its individual capacity as a Lender where the context so requires.

"Agreement" has the meaning ascribed to such term in the preamble hereto.

"Agreement Party" means any Person, other than the REIT and Borrower, which concurrently with the execution of this Agreement or hereafter executes and delivers a guaranty in connection with this Agreement, which as of the date of determination, is in force and effect.

"Applicable Margin" means, for any day, the rate per annum set forth below opposite the applicable Level Period then in effect:

Level Period	Applicable Margin
Level I Period	1.25%
Level II Period	1.45%
Level III Period	1.65%

The Applicable Margin shall be adjusted for all purposes quarterly as soon as reasonably practicable, but not later than five (5) days, after the date of receipt by Agent of the quarterly financial information in accordance with the provisions of Section 6.01(a) hereof, together with a calculation by Borrower of the ratio of Total Liabilities to the sum of Gross Asset Values for Borrower and each of its Subsidiaries as of the end of the applicable Fiscal Quarter. No adjustment in the Applicable Margin shall be made retroactively.

"Assignment and Assumption" means an Assignment and Assumption in the form of Exhibit A hereto (with blanks appropriately filled in) delivered to Agent in connection with each assignment of a Lender's interest under this Agreement pursuant to Section 11.13.

"Balloon Payment" means, with respect to any loan constituting Indebtedness, any required principal payment of such loan which is either (i) payable at the maturity of such

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loan or (ii) in an amount which exceeds twenty-five percent (25%) of the original principal amount of such loan; provided, however, that the final payment of a fully amortizing loan shall not constitute a Balloon Payment.

"Base Rate" means, on any day, a fluctuating interest rate per annum as shall be in effect from time to time, which rate shall at all times be equal to the higher of (a) the base rate of interest per annum established from time to time by Wells Fargo, and designated as its prime rate and in effect on such day, and (b) the Federal Funds Rate as announced by the Federal Reserve Bank of New York, in effect on such day plus one half percent (0.5%) per annum. Each change in the Base Rate shall become effective automatically as of the opening of business on the date of such change in the Base Rate, without prior written notice to Borrower or Lenders. The Base Rate may not be the lowest rate of interest charged by any bank, Agent or Lender on similar loans.

"Base Rate Loans" means those Loans bearing interest at the Base Rate.

"Base Rent" means the aggregate rent received, on a consolidated basis, by Borrower or any Subsidiary from tenants which lease manufactured home community sites owned by Borrower or any Subsidiary minus any amounts specifically identified as and representing payments for trash removal, cable television, water, electricity, other utilities, taxes and other rent which reimburses expenses related to the tenant's occupancy.

"Benefit Plan" means any employee pension benefit plan as defined in Section 3(2) of ERISA (other than a Multiemployer Plan) which a Person or any ERISA Affiliate maintains, administers, contributes to or is required to contribute to, or, within the immediately preceding five (5) years, maintained, administered, contributed to or was required to contribute to, or under which a Person or any ERISA Affiliate may have any liability.

"Borrower" has the meaning ascribed to such term in the preamble hereto.

"Borrower Plan" shall mean any Plan (A) which Borrower, any of its Subsidiaries or any of its ERISA Affiliates maintains, administers, contributes to or is required to contribute to, or, within the five years prior to the Closing Date, maintained, administered, contributed to or was required to contribute to, or under which Borrower, any of its Subsidiaries or any of its ERISA Affiliates may incur any liability and (B) which covers any employee or former employee of Borrower, any of its Subsidiaries or any of its ERISA Affiliates (with respect to their relationship with such entities).

"Borrower's Adjusted Share" means Borrower's and/or the REIT's collective direct or indirect share of the assets, liabilities, income, expenses or expenditures, as applicable, of an Investment Affiliate based upon the greater of (i) Borrower's and/or the REIT's percentage ownership (whether direct or indirect) of such Investment Affiliate, as provided in the charter and by-laws, partnership agreements or other organizational or governing documents of such Investment Affiliate and (ii) Borrower's and/or the REIT's percentage ownership (whether direct or indirect) of such Investment Affiliate, based upon its effective economic ownership of such Investment Affiliate. For purposes of determining Borrower's Adjusted Share, at any time that Newco REIT owns any general partnership interest in Borrower in accordance with the terms

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and conditions of this Agreement, the REIT shall be deemed to own one hundred percent (100%) of all ownership interests in Newco REIT.

"Borrower's Share" means Borrower's and/or the REIT's collective direct or indirect share of the assets, liabilities, income, expenses or expenditures, as applicable, of an Investment Affiliate based upon Borrower's and/or the REIT's percentage ownership (whether direct or indirect) of such Investment Affiliate, as the case may be. For purposes of determining Borrower's Share, at any time that Newco REIT owns any general partnership interest in Borrower in accordance with the terms and conditions of this Agreement, the REIT shall be deemed to own one hundred percent (100%) of all ownership interests in Newco REIT.

"Borrowing" means a borrowing under the Facility.

"Business Day" means (a) with respect to any Borrowing, payment or rate determination of LIBOR Loans, a day, other than a Saturday or Sunday, on which Agent is open for business in Chicago and San Francisco and on which dealings in Dollars are carried on in the London inter bank market, and (b) for all other purposes any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the States of California and Illinois, or is a day on which banking institutions located in California and Illinois are required or authorized by law or other governmental action to close.

"Capital Expenditures" means, as applied to any Person for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities during that period and including that portion of Capital Leases which is capitalized on the balance sheet of a Person) by such Person during such period that, in conformity with GAAP, are required to be included in or reflected by the property, plant or equipment or similar fixed asset accounts reflected in the balance sheet of such Person, excluding any expenditures reasonably determined by such Person as having been incurred for expansion of the number of manufactured home sites at a manufactured home community owned by such Person.

"Capital Leases," as applied to any Person, means any lease of any property (whether real, personal or mixed) by that Person as lessee which, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"Cash Equivalents" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States Government or issued by an agency thereof and backed by the full faith and credit of the United States, in each case maturing within one (1) year after the date of acquisition thereof; (b) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within ninety (90) days after the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from any two nationally recognized rating services reasonably acceptable to Agent; (c) domestic corporate bonds, other than domestic corporate bonds issued by Borrower or any of its Affiliates, maturing no more than 2 years after the date of acquisition thereof and, at the time of acquisition, having a rating of at least A or the equivalent from two nationally recognized rating services reasonably acceptable to Agent; (d) variable-rate domestic corporate notes or medium term corporate notes, other than notes issued by Borrower or any of its Affiliates, maturing or resetting no more than 1 year after the date of acquisition thereof and having a rating of at least AA or the equivalent from

two nationally recognized rating services reasonably acceptable to Agent; (e) commercial paper (foreign and domestic) or master notes, other than commercial paper or master notes issued by Borrower or any of its Affiliates, and, at the time of acquisition, having a long-term rating of at least A or the equivalent



from a nationally recognized rating service reasonably acceptable to Agent and having a short-term rating of at least A-1 and P-1 from S&P and Moody's, respectively (or, if at any time neither S&P nor Moody's shall be rating such obligations, then the highest rating from such other nationally recognized rating services reasonably acceptable to Agent); (f) domestic and Eurodollar certificates of deposit or domestic time deposits or Eurotime deposits or bankers' acceptances (foreign or domestic) that are issued by a bank (I) which has, at the time of acquisition, a long-term rating of at least A or the equivalent from a nationally recognized rating service reasonably acceptable to Agent and (II) if a domestic bank, which is a member of the FDIC; and (g) overnight securities repurchase agreements, or reverse repurchase agreements secured by any of the foregoing types of securities or debt instruments, provided that the collateral supporting such repurchase agreements shall have a value not less than 101% of the principal amount of the repurchase agreement plus accrued interest.

"Closing Date" means the date on which this Agreement shall become effective in accordance with Section 12.19, which date shall be December 11, 2003 or such later date as to which Agent and Borrower agree in writing.

"Commission" means the Securities and Exchange Commission.

"Commitment" means, with respect to any Lender, such Lender's Pro Rata Share of the Facility which amount shall not exceed the principal amount set out under such Lender's name under the heading "Loan Commitment" on the counterpart signature pages attached to this Agreement or as set forth on an Assignment and Assumption executed by such Lender, as assignee, as such amount may be adjusted pursuant to the terms of this Agreement.

"Contaminant" means any pollutant (as that term is defined in 42 U.S.C. 9601(33)) or toxic pollutant (as that term is defined in 33 U.S.C. 1362(13)), hazardous substance (as that term is defined in 42 U.S.C. 9601(14)), hazardous chemical (as that term is defined by 29 C.F.R. Section 1910.1200(c)), toxic substance, hazardous waste (as that term is defined in 42 U.S.C. 6903(5)), radioactive material, special waste, petroleum (including crude oil or any petroleum-derived substance, waste, or breakdown or decomposition product thereof), or any constituent of any such substance or waste, including, but not limited to hydrocarbons (including naturally occurring or man-made petroleum and hydrocarbons), flammable explosives, urea formaldehyde insulation, radioactive materials, biological substances, PCBs, pesticides, herbicides, asbestos, sewage sludge, industrial slag, acids, metals, or solvents.

"Contractual Obligation," as applied to any Person, means any provision of any Securities issued by that Person or any indenture, mortgage, deed of trust, lease, contract, undertaking, document or instrument to which that Person is a party or by which it or any of its properties is bound, or to which it or any of its properties is subject (including without limitation any restrictive covenant affecting such Person or any of its properties).

"Controlled Ownership Interests" means ownership interests in a Person where the REIT or Borrower (independently or collectively) has control over the management and operations of such Person.

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"Convertible Securities" means evidences of indebtedness, shares of stock, limited or general partnership interests or other ownership interests, warrants, options, or other rights or securities which are convertible into or exchangeable for, with or without payment of additional consideration, shares of common stock of the REIT or partnership interests of Borrower, as the case may be, either immediately or upon the arrival of a specified date or the happening of a specified event.

"Court Order" means any judgment, writ, injunction, decree, rule or regulation of any court or Governmental Authority binding upon the Person in question.

"Debt Service" means, for any period, Interest Expense for such period plus scheduled principal amortization (exclusive of Balloon Payments) for such period on all Indebtedness of the REIT, on a consolidated basis.

"Defaulting Lender" means any Lender which fails or refuses to perform its obligations under this Agreement within the time period specified for performance of such obligation or, if no time frame is specified, if such failure or refusal continues for a period of two (2) Business Days after written notice from Agent.

"Development Activity" means construction in process, that is being performed by or at the direction of Borrower, any Subsidiary or any Investment Affiliate, of any manufactured home community that will be owned and operated by Borrower, any Subsidiary or any Investment Affiliate upon completion of construction, including construction in process of manufactured home communities not owned by Borrower, any Subsidiary or any Investment Affiliate but which Borrower, any Subsidiary or any Investment Affiliate has the contractual obligation to purchase, but excluding construction in process for the purpose of expanding manufactured home communities that have been operated for at least one (1) year prior to the commencement of such expansion.

"Documentation Agent" means LaSalle Bank National Association in its capacity as documentation agent for the Lenders under this Agreement.

"DOL" means the United States Department of Labor and any successor department or agency.

"Dollars" and "\$" means the lawful money of the United States of America.

"EBITDA" means, for any period and without duplication (i) Net Income for such period, plus (ii) depreciation and amortization expense and other non-cash items deducted in the calculation of Net Income for such period, plus (iii) Interest Expense deducted in the calculation of Net Income for such period, plus, (iv) Taxes deducted in the calculation of Net Income for such period, minus (v) the gains (and plus the losses) from extraordinary or unusual items or asset sales or write-ups or forgiveness of indebtedness included in the calculation of Net Income, for such period, minus (vi) earnings of Subsidiaries for such period distributed to third parties, plus (or minus in the case of a loss) (vii) Borrower's Share of the net income (or loss) of each Investment Affiliate for such period calculated in conformity with GAAP before depreciation, minus (or plus in the case of a loss) (viii) Borrower's Share of the gains (or losses) from extraordinary or unusual items or asset sales or write-ups or forgiveness of indebtedness included in the calculation of the net income of each Investment Affiliate for such period.

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"Eligible Assignee" means any Person that is: (a) an existing Lender; (b) a commercial bank, trust company, savings and loan association, savings bank, insurance company, investment bank or pension fund organized under the laws of the United States of America, any state thereof or the District of Columbia, and having total assets in excess of \$5,000,000,000; or (c) a commercial bank organized under the laws of any other country which is a member of the Organization for Economic Co-operation and Development, or a political subdivision of any such country, and having total assets in excess of \$10,000,000,000, provided that such bank is acting through a branch or agency located in the United States of America. If such entity is not currently a Lender, such entity's (or in the case of a bank which is a subsidiary, such bank's parent's) senior unsecured long term indebtedness must be rated BBB or higher by S&P, Baa2 or higher by Moody's or the equivalent or higher of either such rating by another rating agency acceptable to the Agent.

"Environmental Laws" means all federal, state, district, local

and foreign laws, and all orders, consent orders, judgments, notices, permits or demand letters issued, promulgated or entered thereunder, relating to pollution or protection of the environment, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contamination, chemicals, or industrial substances or Contaminants into the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contamination, chemicals, industrial substances or Contaminants. The term Environmental Laws shall include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); the Toxic Substances Control Act, as amended; the Hazardous Materials Transportation Act, as amended; the Resource Conservation and Recovery Act, as amended ("RCRA"); the Clean Water Act, as amended; the Safe Drinking Water Act, as amended; the Clean Air Act, as amended; all analogous state laws; the plans, rules, regulations or ordinances adopted, or other criteria and guidelines promulgated pursuant to the preceding laws or other similar laws, regulations, rules or ordinances now or hereafter in effect regulating public health, welfare or the environment.

"Environmental Lien" means a Lien in favor of any Governmental Authority for (a) any liability under federal or state Environmental Laws or regulations, or (b) damages arising from, or costs incurred by such Governmental Authority in response to, a Release or threatened Release of a Contaminant into the environment

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute.

"ERISA Affiliate" means any (a) corporation which is, becomes, or is deemed by any Governmental Authority to be a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Internal Revenue Code) as a Person or is so deemed by such Person, (b) partnership, trade or business (whether or not incorporated) which is, becomes or is deemed by any Governmental Authority to be under common control (within the meaning of Section 414(c) of the Internal Revenue Code) with such Person or is so deemed by such Person, (c) any Person which is, becomes or is deemed by any Governmental Authority to be a member of the same "affiliated service group" (as defined in Section 414(m) of the Internal Revenue Code) as such Person or is so deemed by such Person, or (d) any other organization or

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arrangement described in Section 414(o) of the Internal Revenue Code which is, becomes or is deemed by such Person or by any Governmental Authority to be required to be aggregated pursuant to regulations issued under Section 414(o) of the Internal Revenue Code with such Person pursuant to Section 414(o) of the Internal Revenue Code or is so deemed by such Person.

"Event of Default" means any of the occurrences set forth in Article X after the expiration of any applicable grace period expressly provided therein.

"Existing Credit Agreement" has the meaning set forth in the Recitals hereto.

"Existing Loans" means the "Loans" as defined in the Existing Credit Agreement.

"Extended Maturity Date" has the meaning set forth in Section 3.01.

"Facility" means the loan facility of up to One Hundred Ten Million Dollars (\$110,000,000) described in Section 2.01(a).

"FDIC" means the Federal Deposit Insurance Corporation or any

successor thereto.

"Federal Funds Rate" means, for any period, a fluctuating interest rate, rounded upwards to the nearest one hundredth of one percent (0.01%), per annum equal for each day during such period to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal Funds brokers of recognized standing selected by Agent.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System or any governmental authority succeeding to its functions.

"Financial Statements" has the meaning ascribed to such term in Section 6.01(a).

"FIRREA" means the Financial Institutions Recovery, Reform and Enforcement Act of 1989, as amended from time to time.

"First Amended Credit Agreement" has the meaning set forth in the Recitals hereto.

"Fiscal Quarter" means a fiscal quarter of a Fiscal Year.

"Fiscal Year" means the fiscal year of Borrower and the REIT which shall be the twelve (12) month period ending on the last day of December in each year.

"Fixed Charges" for any Fiscal Quarter period means the sum of (i) Debt Service for such period, (ii) 3% of Base Rent for such period, and (iii) Borrower's Share of Capital Expenditures from each Investment Affiliate for such period.

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"Funding Date" means, with respect to any Loan made after the Closing Date, the date of the funding of such Loan.

"Funds from Operations" means the definition of "Funds from Operations" of the National Association of Real Estate Investment Trusts on the date of determination (before allocation to minority interests).

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, which are applicable to the circumstances as of the date of determination and which are consistent with the past practices of the REIT and Borrower.

"Governmental Authority" means any nation or government, any federal, state, local, municipal or other political subdivision thereof or any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Gross Asset Value" means with respect to any Person as of any date of determination, the sum of the Adjusted Asset Values for each Property then owned by such Person plus the value of any cash or Cash Equivalent owned by such Person and not subject to any Lien.

"Indebtedness," as applied to any Person (and without

duplication), means (a) all indebtedness, obligations or other liabilities (whether secured, unsecured, recourse, non-recourse, direct, senior or subordinate) of such Person for borrowed money, (b) all indebtedness, obligations or other liabilities of such Person evidenced by Securities or other similar instruments, (c) all reimbursement obligations and other liabilities of such Person with respect to letters of credit or banker's acceptances issued for such Person's account or other similar instruments for which a contingent liability exists, (d) all obligations of such Person to pay the deferred purchase price of Property or services, (e) all obligations in respect of Capital Leases of such Person, (f) all Accommodation Obligations of such Person, (g) all indebtedness, obligations or other liabilities of such Person or others secured by a Lien on any asset of such Person, whether or not such indebtedness, obligations or liabilities are assumed by, or are a personal liability of, such Person, (h) all indebtedness, obligations or other liabilities (other than interest expense liability) in respect of Interest Rate Contracts and foreign currency exchange agreements excluding all indebtedness, obligations or other liabilities in respect of such Interest Rate Contracts to the extent that the aggregate notional amount thereof does not exceed the aggregate principal amount of any outstanding fixed or floating rate Indebtedness, obligations or other liabilities permitted under this Agreement that exist as of the date that such Interest Rate Contracts are entered into or that are incurred no more than thirty (30) days after such Interest Rate Contracts are entered into and (i) ERISA obligations currently due and payable.

"Initial Maturity Date" means August 9, 2006.

"Interest Expense" means, for any period and without duplication, total interest expense, whether paid, accrued or capitalized (including letter of credit fees and the interest component of Capital Leases but excluding interest expense covered by an interest reserve

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established under a loan facility) of the REIT, on a consolidated basis and determined in accordance with GAAP.

"Interest Period" means, relative to any LIBOR Loans comprising part of the same Borrowing, the period beginning on (and including) the date on which such LIBOR Loans are made as, or converted into, LIBOR Loans, and shall end on (but exclude) the day which numerically corresponds to such date one (1), two (2), three (3), six (6) or twelve (12) months thereafter (or, if such month has no numerically corresponding day, on the last Business Day of such month), in either case as Borrower may select in its relevant Notice of Borrowing pursuant to Section 2.01(b); provided, however, that:

(a) if such Interest Period would otherwise end on a day which is not a Business Day, such Interest Period shall end on the next following Business Day (unless such next following Business Day is the first Business Day of a calendar month, in which case such Interest Period shall end on the Business Day next preceding such numerically corresponding day);

(b) no Interest Period may end later than the Termination Date; and

(c) with the reasonable approval of Agent (unless any Lender has previously advised Agent and Borrower that it is unable to enter into LIBOR contracts for an Interest Period of such duration), an Interest Period may have a duration of less than one (1) month.

"Interest Rate Contracts" means, collectively, interest rate swap, collar, cap or similar agreements providing interest rate protection.

"Interim Period" has the meaning ascribed to such term in Section 4.01(g).

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time to time, and any successor statute.

"Investment" means, as applied to any Person, any direct or indirect purchase or other acquisition by that Person of Securities, or of a beneficial interest in Securities, of any other Person, and any direct or indirect loan, advance (other than deposits with financial institutions available for withdrawal on demand, prepaid expenses, advances to employees and similar items made or incurred in the ordinary course of business), or capital contribution by such Person to any other Person, including all Indebtedness and accounts owed by that other Person which are not current assets or did not arise from sales of goods or services to that Person in the ordinary course of business. The amount of any Investment shall be determined in conformity with GAAP except as otherwise specifically provided herein.

"Investment Affiliate" means any Person in whom the REIT, Borrower or any Subsidiary holds an equity interest, directly or indirectly, whose financial results are not consolidated under GAAP with the financial results of the REIT or Borrower on the consolidated financial statements of the REIT and Borrower.

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"Investment Mortgages" means mortgages securing indebtedness directly or indirectly owed to Borrower or any of its Subsidiaries, including certificates of interest in real estate mortgage investment conduits.

"Issuing Lender" means Wells Fargo in its capacity as issuer of Letters of Credit under this Agreement, and shall include any successor Issuing Lender appointed pursuant hereto.

"IRS" means the Internal Revenue Service and any Person succeeding to the functions thereof.

"Land" means unimproved real estate purchased or leased or to be purchased or leased by Borrower or any of its Subsidiaries for the purpose of future development of improvements.

"Lender Affiliate" as applied to any Lender, means any other Person directly or indirectly controlling, controlled by, or under common control with, that Lender. For purposes of this definition, "control" (including with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as applied to any Person, means (a) the possession, directly or indirectly, of the power to vote more than fifty percent (50%) of the Securities having voting power for the election of directors of such Person or otherwise to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting Securities or by contract or otherwise, or (b) the ownership of a general partnership interest or a limited partnership interest representing more than fifty (50%) of the outstanding limited partnership interests of a Person.

"Lender Reply Period" has the meaning ascribed to such term in Section 11.10(a).

"Lender Taxes" has the meaning ascribed to such term in Section 2.03(g).

"Lenders" means Wells Fargo and any other bank, finance company, insurance or other financial institution which is or becomes a party to this Agreement by execution of a counterpart signature page hereto or an Assignment and Assumption, as assignee, provided that with respect to matters requiring the consent to or approval of Requisite Lenders, the Supermajority Lenders, or all Lenders at any given time, all then existing Defaulting Lenders will be disregarded and excluded, and, for voting purposes only, "all Lenders" shall be deemed to mean "all Lenders other than Defaulting Lenders."

"Letter of Credit Application" shall have the meaning ascribed to such term in Section 2.09(b).

"Letter of Credit Documents" has the meaning set forth in Section 2.09(j) hereof.

"Letter of Credit Mandatory Borrowing" has the meaning set forth in Section 2.09(f) hereof.

"Letter of Credit Note" means the promissory note evidencing the Letter of Credit Obligations in the original principal amount of Thirty Million Dollars (\$30,000,000) executed by Borrower in favor of Issuing Lender, as it may be amended, supplemented, replaced or modified from time to time. A copy of the Letter of Credit Note is attached hereto as Exhibit G.

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"Letter of Credit Obligations" means, collectively and without duplication, (a) all reimbursement and other obligations of Borrower in respect of Letters of Credit, and (b) all amounts paid by Lenders to Issuing Lender in respect of Letters of Credit.

"Letters of Credit" means the letters of credit issued by Issuing Lender pursuant to Section 2.09 hereof for the account of Borrower in an aggregate face amount not to exceed \$30,000,000.00 outstanding at any one time, as they may be drawn on, replaced or modified from time to time.

"Level I Period" means a period during which the ratio of Total Liabilities to the sum of Gross Asset Values for Borrower and each of its Subsidiaries shall be less than 0.55:1.

"Level II Period" means a period during which the ratio of Total Liabilities to the sum of Gross Asset Values for Borrower and each of its Subsidiaries shall equal or exceed 0.55:1 but shall be less than 0.60:1.

"Level III Period" means a period during which the ratio of Total Liabilities to the sum of Gross Asset Values for Borrower and each of its Subsidiaries shall equal or exceed 0.60:1.

"Liabilities and Costs" means all claims, judgments, liabilities, obligations, responsibilities, losses, damages (including punitive and treble damages), costs, disbursements and expenses (including without limitation reasonable attorneys', experts' and consulting fees and costs of investigation and feasibility studies), fines, penalties and monetary sanctions, interest, direct or indirect, known or unknown, absolute or contingent, past, present or future.

"LIBOR" means, relative to any Interest Period for any LIBOR Loan included in any Borrowing, the rate of interest obtained by dividing (i) the rate of interest determined by Agent (whose determination shall be conclusive absent manifest error, which shall not include any lower determination by any other banks) equal to the rate (rounded upwards, if necessary, to the nearest one one-hundredth of one percent (.01%)) per annum reported by Wells Fargo at which Dollar deposits in immediately available funds are offered by Wells Fargo to leading banks in the Eurodollar inter bank market at or about 11:00 A.M. London time two (2) Business Days prior to the beginning of such Interest Period for delivery on the first day of such Interest Period for a period approximately equal to such Interest Period and in an amount equal or comparable to the LIBOR Loan to which such Interest Period relates, by (ii) a percentage expressed as a decimal equal to one (1) minus the LIBOR Reserve Percentage.

"LIBOR Loan" means a Loan bearing interest, at all times during an Interest Period applicable to such Loan, at a fixed rate of interest determined by reference to LIBOR.

"LIBOR Reserve Percentage" means, relative to any Interest Period, the average daily maximum reserve requirement (including, without limitation, all basic, emergency, supplemental, marginal and other reserves) which is imposed under Regulation D, as Regulation D may be amended, modified or supplemented, on "Eurocurrency liabilities" having a term equal to the applicable Interest Period (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on LIBOR Loans is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of any bank to United States residents), which requirement shall be expressed as a decimal. LIBOR

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shall be adjusted automatically on, and as of the effective date of, any change in the LIBOR Reserve Percentage.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance (including, but not limited to, easements, rights-of-way, zoning restrictions and the like), lien (statutory or other), preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever, including without limitation any conditional sale or other title retention agreement, the interest of a lessor under a Capital Lease, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement (other than a financing statement filed by a "true" lessor pursuant to Section 9-408 of the Uniform Commercial Code) naming the owner of the asset to which such Lien relates as debtor, under the Uniform Commercial Code or other comparable law of any jurisdiction.

"Loans" means the loans made pursuant to the Facility, including, without limitation, loans made pursuant to Section 2.01 hereof, Swingline Loans, and Loans made pursuant to Mandatory Borrowings.

"Loan Availability" means the amount of the Facility from time to time.

"Loan Documents" means, this Agreement, the Loan Notes, the REIT Guaranty, and all other agreements, instruments and documents (together with amendments and supplements thereto and replacements thereof) now or hereafter executed by the REIT, Borrower or any Agreement Party, which evidence, guaranty or secure the Obligations.

"Loan Notes" means the promissory notes evidencing the Loans (other than Swingline Loans) in the aggregate original principal amount of One Hundred Ten Million Dollars (\$110,000,000) executed by Borrower in favor of Lenders, as they may be amended, supplemented, replaced or modified from time to time. Copies of the Loan Notes are attached hereto as Exhibit D.

"Mandatory Borrowing" means any Letter of Credit Mandatory Borrowing or Swingline Mandatory Borrowing.

"Manufactured Home Community Mortgages" means Investment Mortgages issued by any Person engaged primarily in the business of developing, owning, and managing manufactured home communities or recreational vehicle resorts.

"Manufactured Home Community Ownership Interests" means partnership, joint venture, membership or other equity interests issued by any Person engaged primarily in the business of developing, owning, and managing manufactured home communities or recreational vehicle resorts.

"Material Adverse Effect" means a material adverse effect upon (i) the ability of Borrower or the REIT to perform its covenants and obligations under this Agreement and the other Loan Documents or (ii) the ability of Agent or Lenders to enforce the Loan Documents. The phrase "has a Material Adverse Effect" or "will result in a Material Adverse Effect" or words substantially



similar thereto shall in all cases be intended to mean "has or will result in a Material Adverse Effect," and the phrase "has no (or does not have a) Material Adverse Effect"

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or "will not result in a Material Adverse Effect" or words substantially similar thereto shall in all cases be intended to mean "does not or will not result in a Material Adverse Effect."

"Maturity Date" means the Initial Maturity Date, as such date may be extended pursuant to Article III.

"Minimum Net Worth" means Five Hundred Million Dollars (\$500,000,000).

"Moody's" means Moody's Investors Service, a Delaware corporation, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by Agent.

"Multiemployer Plan" means an employee benefit plan defined in Section 4001(a)(3) or Section 3(37) of ERISA which is, or within the immediately preceding six (6) years was, maintained, administered, contributed to by or was required to be contributed to by a Person or any ERISA Affiliate, or under which a Person or any ERISA Affiliate may incur any liability.

"Net Income" means, for any period, the net income (or loss) after Taxes of the REIT, on a consolidated basis, for such period calculated in conformity with GAAP; provided, however, that Net Income shall not include the net income (or loss) of Investment Affiliates.

"Net Offering Proceeds" means all cash or other assets received by the REIT or Borrower as a result of the sale of common stock, preferred stock, partnership interests, limited liability company interests, Convertible Securities or other ownership or equity interests in the REIT or Borrower less customary costs and discounts of issuance paid by the REIT or Borrower, as the case may be.

"Net Operating Income" means, for any period, and with respect to any Qualifying Unencumbered Property, the net operating income of such Qualifying Unencumbered Property (attributed to such Property in a manner reasonably acceptable to Agent) for such period (i) determined in accordance with GAAP, (ii) determined in a manner which is consistent with the past practices of the REIT and Borrower, and (iii) inclusive of an allocation of reasonable management fees and administrative costs to such Qualifying Unencumbered Property consistent with the past practices of the REIT and Borrower, except that, for purposes of determining Net Operating Income, income shall not (a) include security or other deposits, lease termination or other similar charges, delinquent rent recoveries, unless previously reflected in reserves, or any other items reasonably deemed by Agent to be of a non-recurring nature or (b) be reduced by depreciation or amortization or any other non-cash item.

"Net Price" means, with respect to the purchase of any Property by Borrower or any Subsidiary, without duplication, (i) cash and Cash Equivalents paid as consideration for such purchase, plus (ii) the principal amount of any note or other deferred payment obligation delivered in connection with such purchase (except as described in clause (iv) below), plus (iii) the value of any other consideration delivered in connection with such purchase or sale (including, without limitation, shares in the REIT and operating partnership units or preferred operating partnership units in Borrower) (as reasonably determined by Agent), minus (iv) the value of any consideration deposited into escrow or subject to disbursement or claim upon the

occurrence of any event, minus (v) reasonable costs of sale and taxes paid or payable in connection with such purchase.

"Net Worth" means, at any time, the sum of Gross Asset Values for Borrower and each of its Subsidiaries at such time minus Total Liabilities at such time.

"New Lender" shall have the meaning set forth in Section 11.13(k) hereof.

"Newco REIT" means a direct Subsidiary of the REIT that is (i) owned at least 95% by the REIT, (ii) controlled by the REIT and (iii) the sole general partner of Borrower.

"Non-Manufactured Home Community Property" means Property which is not (i) used for lease or operation of manufactured home communities or recreational vehicle resorts, (ii) Land, (iii) Securities consisting of stock issued by real estate investment trusts engaged primarily in the development, ownership and management of manufactured home communities and/or recreational vehicle resorts, (iv) Manufactured Home Community Mortgages, (v) Manufactured Home Community Ownership Interests or (vi) Taxable REIT Subsidiary Interests.

"Non Pro Rata Loan" means a Loan (other than a Swingline Loan but including a Mandatory Borrowing) or Letter of Credit draw with respect to which less than all Lenders have funded their respective Pro Rata Shares of such Loans or Letter of Credit draws (whether by making Loans or purchasing participation interests in accordance with the terms hereof) and the failure of the non-funding Lender or Lenders to fund its or their respective Pro Rata Shares of such Loan or Letter of Credit draw constitutes a breach of this Agreement.

"Non-Recourse Indebtedness" means any single loan with respect to which recourse for payment is limited to specific assets related to a particular Property or group of Properties encumbered by a Lien securing such Indebtedness, so long as the Adjusted Asset Value for such Property, or the total of the Adjusted Asset Values for such group of Properties, does not exceed One Hundred Million Dollars (\$100,000,000); provided, however, that personal recourse to the REIT, Borrower or any Subsidiary by a holder of any such loan for fraud, misrepresentation, misapplication of cash, waste, environmental claims and liabilities and other circumstances customarily excluded by institutional lenders from exculpation provisions and/or included in separate indemnification agreements in non-recourse financing of real estate shall not, by itself, prevent such loan from being characterized as Non-Recourse Indebtedness.

"Notice of Borrowing" means, with respect to a proposed Borrowing pursuant to Section 2.01(b) or Section 2.10, a notice of borrowing duly executed by an authorized officer of the sole general partner of Borrower substantially in the form of Exhibit I.

"Notice of Continuation/Conversion" means a notice of continuation or conversion of or to a LIBOR Loan duly executed by an authorized officer of the sole general partner of Borrower substantially in the form of Exhibit J.

"Obligations" means, from time to time, all Indebtedness of Borrower owing to Agent, Swingline Lender, Issuing Lender, any Lender, or any Person entitled to indemnification pursuant to Section 12.02, or any of their respective successors, transferees or assigns, of every type and description, whether or not evidenced by any note, guaranty or other instrument, arising under or in connection with this Agreement or any other Loan Document, whether or not for the

payment of money, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired. The term includes, without limitation, all interest, charges, expenses, fees, reasonable attorneys' fees and disbursements and any other sum now or hereafter chargeable to Borrower under or in connection with this Agreement or any other Loan Document. Notwithstanding anything to the contrary contained in this definition, Obligations shall not be deemed to include any obligations or liabilities of Borrower to Agent or any Lender under an Interest Rate Contract, foreign currency exchange agreement or other Contractual Obligation unless the same is among Borrower and all Lenders.

"Officer's Certificate" means a certificate signed by a specified officer of a Person certifying as to the matters set forth therein.

"Other Indebtedness" means all Indebtedness other than the Obligations.

"Original Credit Agreement" has the meaning set forth in the Recitals hereto.

"Original Obligations" means the "Obligations" as defined in the Existing Credit Agreement.

"PBGC" means the Pension Benefit Guaranty Corporation or any Person succeeding to the functions thereof.

"Permit" means any permit, approval, authorization, license, variance or permission required from a Governmental Authority under an applicable Requirement of Law.

"Permitted Holdings" means any of the holdings and activities described in Section 9.06, but only to the extent permitted in Section 9.06.

"Permitted Liens" means:

(a) Liens for Taxes, assessments or other governmental charges not yet due and payable or which are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted in accordance with Sections 7.01(d) or 7.02(g);

(b) statutory liens of carriers, warehousemen, mechanics, materialmen and other similar liens imposed by law, which are incurred in the ordinary course of business for sums not more than sixty (60) days delinquent or which are being contested in good faith in accordance with Sections 7.01(d) or 7.02(g);

(c) deposits made in the ordinary course of business to secure liabilities to insurance carriers;

(d) Liens for purchase money obligations for equipment; provided that (i) the Indebtedness secured by any such Lien does not exceed the purchase price of such equipment, (ii) any such Lien encumbers only the asset so purchased and the proceeds upon sale, disposition, loss or destruction thereof, and (iii) such Lien, after giving effect

to the Indebtedness secured thereby, does not give rise to an Event of Default or Unmatured Event of Default pursuant to Section 8.01(a);

(e) easements, rights-of-way, zoning restrictions, other similar charges or encumbrances and all other items listed on Schedule

B to Borrower's or any Subsidiary's, as applicable, owner's title insurance policies for any of Borrower's or any Subsidiary's real Properties, so long as the foregoing do not interfere in any material respect with the use or ordinary conduct of the business of Borrower or such Subsidiary, as applicable, and do not diminish in any material respect the value of the Property to which it is attached or for which it is listed; or

(f) Liens and judgments which have been or will be bonded or released of record within thirty (30) days after the date such Lien or judgment is entered or filed against the REIT, Borrower, any Subsidiary or any Agreement Party.

"Person" means any natural person, employee, corporation, limited partnership, limited liability partnership, general partnership, joint stock company, limited liability company, joint venture, association, company, trust, bank, trust company, land trust, business trust, real estate investment trust or other organization, whether or not a legal entity, or any other nongovernmental entity, or any Governmental Authority.

"Plan" means an employee benefit plan defined in Section 3(3) of ERISA (other than a Multiemployer Plan) in respect of which a Person or an ERISA Affiliate, as applicable, is an "employer" as defined in Section 3(5) of ERISA.

"Pre-Closing Financials" has the meaning ascribed to such term in Section 5.01(g).

"Pro Rata Share" means, with respect to any Lender, a fraction (expressed as a percentage), the numerator of which shall be the amount of such Lender's Commitment and the denominator of which shall be the aggregate amount of all of the Lenders' Commitments, as adjusted from time to time in accordance with the provisions of this Agreement.

"Property" means, with respect to any Person, any real or personal property, building, facility, structure, equipment or unit, or other asset owned by such Person.

"Qualifying Unencumbered Property" means (a) the Properties listed on Exhibit F hereto and (b) any Property designated by Borrower from time to time pursuant to Section 6.04 which (i) is an operating manufactured home community property wholly-owned (directly or beneficially) by Borrower or any Subsidiary wholly-owned, directly or indirectly by Borrower and/or the REIT, (ii) is not subject (nor are any direct or indirect equity interests in such Property subject) to a Lien which secures Indebtedness of any Person other than a Permitted Lien, (iii) is not subject (nor are any direct or indirect equity interests in such Property subject) to any covenant, condition, or other restriction which prohibits or limits the creation or assumption of any Lien upon such Property, and (iv) has not been designated by Agent in a notice to Borrower as not acceptable to the Requisite Lenders pursuant to Section 6.04; provided, however, that the weighted average occupancy rate of the Properties listed on Exhibit F together with those designated by Borrower to be Qualifying Unencumbered Properties pursuant to Section 6.04 (excluding expansion areas of such Properties which are purchased and/or developed on or after

the Closing Date and recreational vehicle resort properties) shall be at least seventy-five percent (75%); and provided, further, that Borrower may, upon at least fifteen (15) Business Days prior notice to Agent, designate that any Property listed on Exhibit F or otherwise designated as a Qualifying Unencumbered Property is no longer a Qualifying Unencumbered Property (and upon such designation, such Property shall no longer be a Qualifying Unencumbered Property).

"Recourse Indebtedness" means, with respect to any Person,

Indebtedness which is not Non-Recourse Indebtedness.

"Regulation D" means Regulation D of the Federal Reserve Board as in effect from time to time.

"Regulation T" means Regulation T of the Federal Reserve Board as in effect from time to time.

"Regulation U" means Regulation U of the Federal Reserve Board as in effect from time to time.

"Regulation X" means Regulation X of the Federal Reserve Board as in effect from time to time.

"REIT" has the meaning ascribed to such term in the preamble hereto.

"REIT Guaranty" means the Amended and Restated REIT Guaranty dated as of April 28, 1998 executed by the REIT in favor of Agent and the Lenders. A copy of the REIT Guaranty is attached hereto as Exhibit B.

"Release" may be either a noun or a verb and means the release, spill, emission, leaking, pumping, pouring, emitting, emptying, escaping, dumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor environment or into or out of any property, including the movement of Contaminants through or in the air, soil, surface water, groundwater or property.

"Remedial Action" means any action undertaken pursuant to Environmental Laws to (a) clean up, remove, remedy, respond to, treat or in any other way address Contaminants in the indoor or outdoor environment; (b) prevent the Release or threat of Release or minimize the further Release of Contaminants so they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment; or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care.

"Reportable Event" means any of the events described in Section 4043(b) of ERISA, other than an event for which the thirty (30) day notice requirement is waived by regulations, or any of the events described in Section 4062(f) or 4063(a) of ERISA.

"Requirements of Law" means, as to any Person, the charter and by-laws, partnership agreements or other organizational or governing documents of such Person, and any law, rule or regulation, permit, or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject, including without limitation, the Securities

Act, the Securities Exchange Act, Regulations T, U and X, FIRREA and any certificate of occupancy, zoning ordinance, building or land use requirement or Permit or occupational safety or health law, rule or regulation.

"Requisite Lenders" means, collectively, Lenders whose Pro Rata Shares, in the aggregate, are at least sixty-six and two-thirds percent (662/3%); provided, however, that, in determining such percentage at any given time, all then existing Defaulting Lenders will be disregarded and excluded and the Pro Rata Shares of Lenders shall be redetermined, for voting purposes only, to exclude the Pro Rata Shares of such Defaulting Lenders; and provided, further, that so long as there are at least two (2) Lenders who are not Defaulting Lenders, the Requisite Lenders must be comprised of a minimum of two (2) Lenders; and provided, further, that for purposes of any amendment, modification or waiver of the requirements of Article IX, the Requisite lenders must include Agent in its capacity as a Lender (provided Agent is not a defaulting Lender).

"S&P" means Standard & Poor's Rating Group, a division of McGraw Hill, its successors and assigns, and, if Standard & Poor's Rating Group shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by Agent.

"Secretary's Certificate" has the meaning ascribed to such term in Section 4.01(c) (i).

"Secured Debt" means Indebtedness, the payment of which is secured by a Lien on any real Property owned or leased by the REIT, Borrower, or any Subsidiary.

"Securities" means any stock, partnership interests, shares, shares of beneficial interest, voting trust certificates, bonds, debentures, notes or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities," or any certificates of interest, shares, or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire any of the foregoing, but shall not include any evidence of the Obligations.

"Securities Act" means the Securities Act of 1933, as amended to the date hereof and from time to time hereafter, and any successor statute.

"Securities Exchange Act" means the Securities Exchange Act of 1934, as amended to the date hereof and from time to time hereafter, and any successor statute.

"Senior Loans" has the meaning ascribed to such term in Section 11.04(b).

"Sole Lead Arranger" means Wells Fargo Bank, N.A. in its capacity as sole lead arranger for the Lenders under this Agreement.

"Solvent" means as to any Person at the time of determination, such Person (a) owns property the value of which (both at fair valuation and at present fair saleable value) is greater than the amount required to pay all of such Person's liabilities (including contingent liabilities and debts); (b) is able to pay all of its debts as such debts mature; and (c) has capital

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sufficient to carry on its business and transactions and all business and transactions in which it is about to engage.

"Subsidiary" means any Person, whose financial results are consolidated under GAAP with the financial results of the REIT or Borrower on the consolidated financial statements of the REIT or Borrower.

"Supermajority Lenders" means, collectively, Lenders whose Pro Rata Shares, in the aggregate, are at least eighty-five percent (85%), provided, however, that, in determining such percentage at any given time, all then existing Defaulting Lenders will be disregarded and excluded and the Pro Rata Shares of Lenders shall be redetermined, for voting purposes only, to exclude the Pro Rata Shares of such Defaulting Lenders; and provided, further, that, so long as there are at least two (2) Lenders who are not Defaulting Lenders, the Supermajority Lenders must be comprised of a minimum of two (2) Lenders; and provided, further, that for purposes of any amendment, modification or waiver of the requirements of Article IX, the Supermajority Lenders must include Agent in its capacity as a Lender (provided Agent is not a Defaulting Lender).

"Swingline Mandatory Borrowing" has the meaning set forth in Section 2.10(b) (iv) hereof.

"Swingline Lender" means Wells Fargo in its capacity as Swingline Lender hereunder, and shall include any successor Swingline Lender appointed pursuant hereto.

"Swingline Loan" means a Loan made by the Swingline Lender pursuant to Section 2.10 hereof.

"Swingline Note" means the promissory note evidencing the Swingline Loans in the original principal amount of Thirty Million Dollars (\$30,000,000) executed by Borrower in favor of Swingline Lender, as it may be amended, supplemented, replaced or modified from time to time. A copy of the Swingline Note is attached hereto as Exhibit E.

"Syndication Agent" means Bank of America, N.A. in its capacity as syndication agent for the Lenders under this Agreement.

"Taxable REIT Subsidiary Interests" means equity interests in Subsidiaries not engaged in the development, ownership or operation of real estate and permitted to be held by Borrower and the REIT pursuant to Section 856(l) of the Internal Revenue Code (as amended from time to time) without violating the REIT's status as a real estate investment trust.

"Taxes" means all federal, state, local and foreign income and gross receipts taxes.

"Termination Date" has the meaning ascribed to such term in Section 2.01(d).

"Termination Event" means (a) any Reportable Event, (b) the withdrawal of a Person, or an ERISA Affiliate from a Benefit Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA, (c) the occurrence of an obligation arising under Section 4041 of ERISA of a Person or an ERISA Affiliate to provide

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affected parties with a written notice of an intent to terminate a Benefit Plan in a distress termination described in Section 4041(c) of ERISA, (d) the institution by the PBGC of proceedings to terminate any Benefit Plan under Section 4042 of ERISA or to appoint a trustee to administer any Benefit Plan, (e) any event or condition which constitutes grounds under Section 4042 of ERISA for the appointment of a trustee to administer a Benefit Plan, (f) the partial or complete withdrawal of such Person or any ERISA Affiliate from a Multiemployer Plan which would have a Material Adverse Effect, or (g) the adoption of an amendment by any Person or any ERISA Affiliate to terminate any Benefit Plan which is subject to Title IV of ERISA or Section 412 of the Internal Revenue Code or the treatment of an amendment to a Benefit Plan as a termination under ERISA.

"Total Liabilities" means, without duplication, all Indebtedness of the REIT on a consolidated basis, plus (i) all other items which, in accordance with GAAP, would be included as liabilities on the liability side of the balance sheet of the REIT, on a consolidated basis, and in any event shall include recourse and non-recourse mortgage debt, letters of credit, purchase obligations, forward equity sales, repurchase obligations, unsecured debt, accounts payable, lease obligations (including ground leases) to the extent required, in accordance with GAAP, to be classified as capital leases on the balance sheet of the REIT, guarantees of indebtedness, subordinated debt and unfunded obligations plus (ii) Borrower's Adjusted Share of Investment Affiliates' Indebtedness; provided, however, that "Total Liabilities" shall not include dividends declared by the REIT or Borrower which are permitted under Section 8.01(d) but not yet paid.

"Transient RV NOI" means, with respect to any Qualifying Unencumbered Property that is a recreational vehicle resort property, all of such Qualifying Unencumbered Property's Net Operating Income that is not

attributable to residents/guests at such property who are either permanent residents of such property or who reside at such property for the entire "season" applicable to such property.

"Unencumbered Asset Value" means, as of any date of determination, (i) the quotient of the Net Operating Income for the most recently ended twelve (12) calendar month period which is attributable (in a manner reasonably acceptable to Agent) to Qualifying Unencumbered Properties wholly-owned (directly or beneficially) by Borrower or any Subsidiary wholly-owned, directly or indirectly, by Borrower and/or the REIT, for the entire most recently ended Fiscal Quarter divided by seven hundred seventy-five ten-thousandths (0.0775) plus (ii) the aggregate of the Net Prices paid by Borrower or such Subsidiary for all Qualifying Unencumbered Properties which have been acquired in the Fiscal Quarter most recently ended; provided, however, that for purposes of determining the numerator of the quotient described in clause (i) of this definition, Transient RV NOI shall be included only to the extent it does not exceed fifteen percent (15%) of the aggregate Net Operating Income for the applicable Qualifying Unencumbered Properties.

"Unencumbered Net Operating Income" means for any Fiscal Quarter, Net Operating Income for such period from each Qualifying Unencumbered Property; provided, however, that for purposes of determining Unencumbered Net Operating Income, Transient RV NOI shall be included only to the extent it does not exceed fifteen percent (15%) of the aggregate Net Operating Income for the applicable Qualifying Unencumbered Properties.

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"Unfunded Pension Liabilities" means the excess of a Benefit Plan's accrued benefits, as defined in Section 3(23) of ERISA, over the current value of that Plan's assets, as defined in Section 3(26) of ERISA.

"Uniform Commercial Code" means the Uniform Commercial Code as in effect on the date hereof in the State of Illinois.

"Unmatured Event of Default" means an event which, with the giving of notice or the lapse of time, or both, would constitute an Event of Default.

"Unsecured Debt" means, as of any date of determination and without duplication, all Indebtedness of the REIT, Borrower or any Subsidiary, which is not Secured Debt but excluding (i) all accounts payable of the REIT, Borrower or any Subsidiary incurred in the ordinary course of business, (ii) all advance rents received and (iii) all accrued interest payable.

"Unsecured Interest Expense" means Interest Expense other than Interest Expense payable in respect of Secured Debt.

"Unused Amount" has the meaning ascribed to such term in Section 2.04(a).

"Unused Facility Fee" has the meaning ascribed to such term in Section 2.04(b).

"Welfare Plan" means any "employee welfare benefit plan" as defined in Section 3(1) of ERISA, which a Person or any ERISA Affiliate maintains, administers, contributes to or is required to contribute to, or within the immediately preceding five years maintained, administered, contributed to or was required to contribute to, or under which a Person or any ERISA Affiliate may incur any liability.

"Wells Fargo" has the meaning ascribed to such term in the preamble hereto.

"Wholly-Owned Subsidiary" means any Subsidiary which is wholly-owned directly or indirectly by Borrower or the REIT.



"WFRAF" has the meaning set forth in the Recitals hereto.

1.02 Computation of Time Periods. In this Agreement, unless otherwise specified, in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to and including." Periods of days referred to in this Agreement shall be counted in calendar days unless Business Days are expressly prescribed.

1.03 Terms.

(a) Any accounting terms used in this Agreement which are not specifically defined shall have the meanings customarily given them in accordance with GAAP, provided that for purposes of references to the financial results of the "REIT, on a consolidated basis," the REIT shall be deemed to own one hundred percent (100%) of the partnership interests in Borrower.

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(b) Any time the phrase "to the best of Borrower's knowledge" or a phrase similar thereto is used herein, it means: "to the actual knowledge of the executive officers of Borrower and the REIT, after reasonable inquiry of those agents, employees or contractors of the REIT, Borrower, any Agreement Party or any Subsidiary who could reasonably be anticipated to have knowledge with respect to the subject matter or circumstances in question and review of those documents or instruments which could reasonably be anticipated to be relevant to the subject matter or circumstances in question."

(c) In each case where the consent or approval of Agent, Requisite Lenders, Supermajority Lenders or all Lenders is required or their non-obligatory action is requested by Borrower, such consent, approval or action shall be in the sole and absolute discretion of Agent and, as applicable, each Lender, unless otherwise specifically indicated.

1.04 Interrelationship With the Existing Credit Agreement. Effective on the Closing Date, this Agreement shall amend and restate the provisions of the Existing Credit Agreement in their entirety, and all Existing Loans and all Loans made on or after the Closing Date shall be governed exclusively by the terms of this Agreement. All Original Obligations outstanding on the Closing Date (including without limitation all accrued and unpaid interest and fees) shall, to the extent not paid on the Closing Date, be deemed to be Obligations outstanding hereunder. The REIT Guaranty shall remain in full force and effect with respect to the Obligations and is hereby reaffirmed. The parties acknowledge and agree that the execution and delivery of this Agreement shall not constitute a novation, payment and reborrowing or termination of the Original Obligations and that all such Original Obligations outstanding on the Closing Date are in all respects continued and outstanding as Obligations under this Agreement.

## ARTICLE II. LOANS

2.01 Loan Advances and Repayment.

(a) Loan Availability.

(i) Subject to the terms and conditions set forth in this Agreement, Lenders hereby agree to make Loans (other than Swingline Loans) to Borrower from time to time during the period from the Closing Date to the first Business Day preceding the Maturity Date; provided, that the sum of the aggregate principal amount of all outstanding Loans (including Swingline Loans) plus the aggregate face amount of all outstanding Letters of Credit shall not exceed Loan Availability; and provided, further, that if a Base Rate Loan is being made pursuant to Section 2.09(e) hereof to reimburse Issuing Lender for a drawn Letter

of Credit, to avoid a duplicative reduction in the amount of Loan Availability, the drawn Letter of Credit shall not be considered outstanding. All Loans (other than Swingline Loans) under this Agreement shall be made by Lenders simultaneously and proportionately to their respective Pro Rata Shares, it being understood that no Lender shall be responsible for any failure by any other Lender to perform its obligation to make a Loan hereunder and that the Commitment of any Lender shall not be increased or decreased as a result of the failure by any other Lender to perform its obligation to make a Loan. The Loans (other than Swingline Loans) will be evidenced by the Loan Notes. The Swingline Loans will be evidenced by the Swingline Note.

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(ii) Loans (including, without limitation, Swingline Loans) may be voluntarily prepaid pursuant to Section 2.05(a) and, subject to the provisions of this Agreement (including, without limitation, the provisions of Section 2.11 hereof), any amounts so prepaid may be reborrowed, up to the amount available under Section 2.01(a)(i) at the time of such Borrowing, until the Business Day next preceding the Termination Date. The principal balance of the Loans shall be payable in full on the Termination Date. During the term of this Agreement and prior to the termination of the Commitments, Borrower shall pay to Agent, within one (1) Business Day after Borrower's receipt of a demand in writing from Agent for the benefit of Lenders, such principal amounts as are necessary so that the sum of the aggregate principal amounts of all outstanding Loans (including Swingline Loans) plus the aggregate face amount of all outstanding Letters of Credit at any time does not exceed Loan Availability at such time.

(b) Notice of Borrowing. Whenever Borrower desires to borrow under this Section 2.01, Borrower shall give Agent, at Wells Fargo Real Estate Group Disbursement Center, 2120 East Park Place, Suite 100, El Segundo, California 90245, with a copy to: Wells Fargo Bank, N.A., 123 North Wacker Drive, Suite 1900, Chicago, Illinois 60606, Attn: Account Officer, or such other address as Agent shall designate, an original or facsimile Notice of Borrowing no later than 10:00 A.M. (California time), not less than three (3) nor more than five (5) Business Days prior to the proposed Funding Date of each Loan. Each Notice of Borrowing shall specify (i) the Funding Date (which shall be a Business Day) in respect of the Loan, (ii) the amount of the proposed Loan, provided that the aggregate amount of such proposed Loan shall equal (A) in the case of Base Rate Loans, One Million Dollars (\$1,000,000) or integral multiples of One Hundred Thousand Dollars (\$100,000) in excess thereof, or (B) in the case of LIBOR Loans, One Million Dollars (\$1,000,000) or integral multiples of One Hundred Thousand Dollars (\$100,000) in excess thereof, and (iii) whether the Loan to be made thereunder will be a Base Rate Loan or a LIBOR Loan and, if a LIBOR Loan, the Interest Period. Any Notice of Borrowing pursuant to this Section 2.01(b) shall be irrevocable. Each such Notice of Borrowing shall be accompanied by all reports or documents required to be delivered by Borrower to Agent or any Lender under this Agreement. Borrower may elect (A) so long as no Event of Default has occurred and is continuing, to convert Base Rate Loans or any portion thereof into LIBOR Loans, (B) to convert LIBOR Loans or any portion thereof into Base Rate Loans, or (C) so long as no Event of Default has occurred and is continuing, to continue any LIBOR Loans or any portion thereof for an additional Interest Period, provided, however, that the aggregate amount of Loans being continued as or converted into LIBOR Loans shall, in the aggregate, equal One Million Dollars (\$1,000,000) or an integral multiple of One Hundred Thousand Dollars (\$100,000) in excess thereof. The applicable Interest Period for the continuation of any LIBOR Loan shall commence on the day on which the next preceding Interest Period expires. Each such election shall be made by giving Agent, at 2120 E. Park Place, Suite 100, El Segundo, California 90245, Attn: Elizabeth MacDonald, a Notice of Continuation/Conversion by 10:00 A.M. (California time) on the date of a conversion to a Base Rate Loan, or by 10:00 A.M. (California time) not less than three (3) nor more than five (5) Business Days prior to the date of a conversion to or continuation of a LIBOR Loan,

specifying, in each case (1) whether a conversion or continuation is to occur, (2) the amount of the conversion or continuation, (3) the Interest Period therefor, in the case of a conversion to or continuation of a LIBOR Loan, and (4) the date of the conversion or continuation (which date shall be a Business Day). Agent shall promptly notify each Lender, but in any event within one (1) Business Day after receipt of such notice, of its receipt of each such notice and the contents

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thereof. Notwithstanding anything to the contrary contained herein and subject to the default interest provisions contained in Section 2.03, if an Event of Default occurs and as a result thereof the Commitments are terminated, all LIBOR Loans will convert to Base Rate Loans upon the expiration of the applicable Interest Periods therefor or the date all Loans become due, whichever occurs first. Except as provided above, the conversion of a LIBOR Loan to a Base Rate Loan shall only occur on the last Business Day of the Interest Period relating to such LIBOR Loan. In the absence of an effective election by Borrower of a LIBOR Loan and Interest Period in accordance with the above procedures prior to the third (3rd) Business Day prior to the expiration of the then current Interest Period with respect to any LIBOR Loan, interest on such LIBOR Loan shall accrue at the interest rate then applicable to a LIBOR Loan for an Interest Period of thirty (30) days, effective immediately upon the expiration of the then-current Interest Period, without prejudice, however, to the right of Borrower to elect a Base Rate Loan or a different Interest Period in accordance with the terms and provisions of this Agreement; provided, however, that if such continuation shall cause the number of LIBOR Loan tranches to exceed six (6), such LIBOR Loan shall be converted to a Base Rate Loan.

(c) Making of Loans. Subject to Section 11.03, Agent shall make the proceeds of Loans (other than Swingline Loans) available to Borrower in El Segundo, California on such Funding Date and shall disburse such funds in Dollars and in immediately available funds not later than 1:00 P.M. Chicago time to Borrower's account, at Bank of America, Account Number 73-66901095 in Chicago, Illinois, or such other account specified in the Notice of Borrowing acceptable to Agent, with a confirming telephone call to Quantaze Watts at (312) 279-1408 or Michael Berman at (312) 279-1496.

(d) Term; Principal Payment. The outstanding balance of the Loans (other than Swingline Loans, which by their terms shall mature earlier) shall be payable in full on the earlier to occur of (A) the Maturity Date, and (B) the acceleration of the Loans pursuant to Section 10.02(a) (the "Termination Date").

2.02 Authorization to Obtain Loans and Letters of Credit. Borrower shall provide Agent with documentation reasonably satisfactory to Agent indicating the names of those employees or agents of Borrower authorized by Borrower to sign Notices of Borrowing, to request Letters of Credit and to receive callback confirmations, and Agent and Lenders shall be entitled to rely on such documentation until notified in writing by Borrower of any change(s) of the persons so authorized. Agent, Swingline Lender and Issuing Lender shall be entitled to act in good faith on the instructions of anyone identifying himself as one of the Persons authorized to request Loans or Letters of Credit, and Borrower shall be bound thereby in the same manner as if such Person were actually so authorized. Borrower agrees to indemnify, defend and hold Lenders, Agent, Swingline Lender and Issuing Lender harmless from and against any and all Liabilities and Costs which may arise or be created by the acceptance of instructions for making Loans, and issuing Letters of Credit.

#### 2.03 Interest on the Loans

(a) Base Rate Loans. Subject to Section 2.03(d), all Base Rate Loans shall bear interest on the average daily unpaid principal amount thereof from the date made until paid in full at a fluctuating rate per annum equal to the Base Rate. Base Rate Loans shall be made in

minimum amounts of One Million Dollars (\$1,000,000) or an integral multiple of One Hundred Thousand Dollars (\$100,000) in excess thereof.

(b) LIBOR Loans. Subject to Section 2.03(d), all LIBOR Loans shall bear interest on the unpaid principal amount thereof during the Interest Period applicable thereto at a rate per annum equal to the sum of LIBOR for such Interest Period plus the Applicable Margin. Upon receipt of a Notice of Borrowing requesting LIBOR Loans, Agent shall determine LIBOR applicable to the Interest Period for such LIBOR Loans, and shall give notice thereof to Borrower and Lenders; provided, however, that failure to give such notice shall not affect the validity of such rate. Each determination by Agent of LIBOR shall be conclusive and binding upon the parties hereto in the absence of demonstrable error. LIBOR Loans shall be in tranches of One Million Dollars (\$1,000,000) or One Hundred Thousand Dollars (\$100,000) increments in excess thereof. No more than six (6) LIBOR Loan tranches shall be outstanding at any one time.

(c) Interest Payments. Subject to Section 2.03(d), interest accrued on all Loans shall be payable by Borrower in arrears on the first Business Day of the first calendar month following the Closing Date, and the first Business Day of each succeeding calendar month thereafter, and on the Termination Date.

(d) Default Interest. Notwithstanding the rates of interest specified in Sections 2.03(a) and 2.03(b) and the payment dates specified in Section 2.03(c), effective immediately upon demand by Agent after the occurrence of an Event of Default and during the continuance of any Event of Default, the principal balance of all Loans then outstanding and, to the extent permitted by applicable law, any interest payments on the Loans not paid when due shall bear interest payable upon demand at a rate which is five percent (5%) per annum in excess of the rate or rates of interest otherwise payable under this Agreement. All other amounts due Agent, Swingline Lender, Issuing Lender or Lenders (whether directly or for reimbursement) under this Agreement or any of the other Loan Documents if not paid when due, or if no time period is expressed, if not paid within fifteen (15) days after written demand to Borrower, shall bear interest from and after demand at the rate which is five percent (5%) per annum in excess of the lowest rate or rates of interest otherwise payable under this Agreement, or, if no Loans are then outstanding, at the rate which is five percent (5%) per annum in excess of the rate of interest applicable to Base Rate Loans.

(e) Late Fee. Borrower acknowledges that late payment hereunder will cause Agent, Swingline Lender, Issuing Lender and Lenders to incur costs not contemplated by this Agreement. Such costs include without limitation processing and accounting charges. Therefore, if Borrower fails timely to pay any sum due and payable hereunder through the Termination Date (other than payments of principal), unless waived by Agent pursuant to Section 12.05(e), a late charge of four cents (\$.04) for each dollar of any interest payment due hereon and which is not paid within ten (10) days after such payment is due or of any other amount due hereon (other than payments of principal) and which is not paid within thirty (30) days after such payment is due, shall be charged by Agent (for the benefit of Swingline Lender, Issuing Lender and Lenders, as applicable) and paid by Borrower for the purpose of defraying the expense incident to handling such delinquent payment; provided, however, that no late charges shall be assessed with respect to any amount for which Borrower is obligated to pay interest at the rate specified in Section 2.03(d), provided, further, that in no event shall Agent, Swingline Lender, Issuing Lender or Lenders be required to refund any late fees paid by Borrower, notwithstanding the preceding proviso. Borrower, Agent,

Swingline Lender, Issuing Lender, and Lenders agree that this late charge

represents a reasonable sum considering all of the circumstances existing on the date hereof and represents a fair and reasonable estimate of the costs that Agent, Swingline Lender, Issuing Lender and Lenders will incur by reason of late payment. Borrower, Agent, Swingline Lender, Issuing Lender and Lenders further agree that proof of actual damages would be costly and inconvenient. Acceptance of any late charge shall not constitute a waiver of the default with respect to the overdue installment, and shall not prevent Agent from exercising any of the other rights available hereunder or any other Loan Document. Such late charge shall be paid without prejudice to any other rights of Agent.

(f) Computation of Interest. Interest and fees shall be computed on the basis of the actual number of days elapsed in the period during which interest or fees accrue and a year of three hundred sixty (360) days. In computing interest on any Loan, the date of the making of the Loan shall be included and the date of payment shall be excluded; provided, however, that if a Loan is repaid on the same day on which it is made, one (1) day's interest shall be paid on that Loan. Notwithstanding subsections (a), (b), (d) and (e) above, interest in respect of any Loan shall not exceed the maximum rate permitted by applicable law.

(g) Changes; Legal Restrictions. In the event that after the Closing Date (A) the adoption of or any change in any law, treaty, rule, regulation, guideline or determination of a court or Governmental Authority or any change in the interpretation or application thereof by a court or Governmental Authority, or (B) compliance by Agent, Swingline Lender, Issuing Lender or any Lender with any request or directive made or issued after the Closing Date (whether or not having the force of law and whether or not the failure to comply therewith would be unlawful) from any central bank or other Governmental Authority or quasi-governmental authority:

(i) subjects Agent, Swingline Lender, Issuing Lender or any Lender to any tax, duty or other charge of any kind with respect to the Facility, this Agreement or any of the other Loan Documents or the Loans or the Letters of Credit or changes the basis of taxation of payments to Agent, Swingline Lender, Issuing Lender or such Lender of principal, fees, interest or any other amount payable hereunder, except for net income, gross receipts, gross profits or franchise taxes imposed by any jurisdiction and not specifically based upon loan transactions (all such non-excepted taxes, duties and other charges being hereinafter referred to as "Lender Taxes");

(ii) imposes, modifies or holds applicable, in the determination of Agent, Swingline Lender, Issuing Lender or any Lender, any reserve, special deposit, compulsory loan, FDIC insurance, capital allocation or similar requirement against assets held by, or deposits or other liabilities in or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by, Agent, Swingline Lender, Issuing Lender or such Lender or any applicable lending office (except to the extent that the reserve and FDIC insurance requirements are reflected in the "Base Rate" or "LIBOR Rate"); or

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(iii) imposes on Agent, Swingline Lender, Issuing Lender or any Lender any other condition materially more burdensome in nature, extent or consequence than those in existence as of the Closing Date;

and the result of any of the foregoing is to (X) increase the cost to Agent, Swingline Lender, Issuing Lender or any Lender of making, renewing, maintaining or participating in the Loans or issuing or participating in the Letters of Credit or to reduce any amount receivable hereunder or thereunder or (Y) to require Agent, Swingline Lender, Issuing Lender or any Lender or any applicable lending office to make any payment calculated by reference to the amount of the Loan held or interest received by it; then, in any such case, Borrower shall promptly pay to Agent, Swingline Lender, Issuing Lender or such Lender, as

applicable, upon demand, such amount or amounts (based upon a reasonable allocation thereof by Agent, Swingline Lender, Issuing Lender or such Lender to the financing transactions contemplated by this Agreement and affected by this Section 2.03(g)) as may be necessary to compensate Agent, Swingline Lender, Issuing Lender or such Lender for any such additional cost incurred, reduced amounts received or additional payments made to the extent Agent, Swingline Lender, Issuing Lender or such Lender generally imposes such additional costs, losses and payments on other borrowers in similar circumstances. Agent, Swingline Lender, Issuing Lender or such Lender shall deliver to Borrower and in the case of a delivery by a Lender, such Lender shall also deliver to Agent, a written statement in reasonable detail of the claimed additional costs incurred, reduced amounts received or additional payments made and the basis therefor as soon as reasonably practicable after Agent or such Lender, as applicable, obtains knowledge thereof.

(h) Certain Provisions Regarding LIBOR Loans

(i) LIBOR Lending Unlawful. If any Lender shall determine in good faith that the introduction of or any change in or in the interpretation of any law makes it unlawful, or any central bank or other governmental authority asserts that it is unlawful, for such Lender to make or maintain any Loan as a LIBOR Loan, (A) the obligations of the Lenders to make or maintain any Loans as LIBOR Loans shall, upon such determination, forthwith be suspended until such Lender shall notify Agent that the circumstances causing such suspension no longer exist, and (B) if required by law or such assertion, all LIBOR Loans shall automatically convert into Base Rate Loans.

(ii) Deposits Unavailable. If Agent shall have determined in good faith that adequate means do not exist for ascertaining the interest rate applicable hereunder to LIBOR Loans, then, upon notice from Agent to Borrower the obligations of all Lenders to make or maintain Loans as LIBOR Loans shall forthwith be suspended until Agent shall notify Borrower that the circumstances causing such suspension no longer exist. Agent will give such notice when it determines, in good faith, that such circumstances no longer exist; provided, however, that Agent shall not have any liability to any Person with respect to any delay in giving such notice.

(iii) Funding Losses. In the event any Lender shall incur any loss or expense (including any loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to make or maintain any portion of any Loan as a LIBOR Loan) as a result of:

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(A) any continuance, conversion, repayment or prepayment of the principal amount of any LIBOR Loans for any reason whatsoever on a date other than the scheduled last day of the Interest Period applicable thereto; or

(B) any Loans not being made as LIBOR Loans in accordance with the Notice of Borrowing therefor, other than as a result of such Lender's breach of its obligation to fund such Loans in accordance with the terms hereof;

then, within fifteen (15) Business Days after Borrower's receipt of the written notice of such Lender to Borrower with a copy to Agent, Borrower shall reimburse such Lender for such loss or expense; provided, however, that each Lender will use reasonable efforts to minimize such loss or expense. Such written notice (which shall include calculations in reasonable detail) shall, in the absence of demonstrable error, be conclusive and binding on the parties hereto.

(i) Withholding Tax Exemption. Each Lender that is not created or organized under the laws of the United States of America or a political subdivision thereof shall deliver to Borrower and Agent no later than the Closing Date (or, in the case of a Lender which becomes a Lender pursuant to Section 11.13, the date upon which such Lender becomes a party hereto) a true and accurate certificate executed in duplicate by a duly authorized officer of such Lender, in a form satisfactory to Borrower and Agent, to the effect that such Lender is capable, under the provisions of an applicable treaty concluded by the United States of America (in which case the certificate shall be accompanied by three (3) accurate and complete duly executed originals of Form W-8BEN of the Internal Revenue Service) or under Section 1442 of the Internal Revenue Code (in which case the certificate shall be accompanied by three (3) accurate and complete duly executed originals of Form W-8ECI of the Internal Revenue Service), of receiving payments of principal, interest and fees hereunder without deduction or withholding of United States federal income tax. Further, if at any time a Lender changes its applicable lending office or selects an additional applicable lending office, it shall, at the same time or promptly thereafter, but only to the extent the certificate and forms previously delivered by it hereunder are no longer applicable or effective, deliver to Borrower and Agent in replacement for, or in addition to, the certificate and forms previously delivered by it hereunder, a true and accurate certificate executed in duplicate by a duly authorized officer of such Lender accompanied by three (3) accurate and complete duly executed originals of either Form W-8BEN of the Internal Revenue Service or Form W-8ECI of the Internal Revenue Service, whichever is applicable, indicating that such Lender is entitled to receive payments of principal, interest and fees for the account of such changed or additional applicable lending office under this Agreement without deduction or withholding of United States federal tax. Each Lender further agrees to deliver to Borrower and Agent a true and accurate certificate executed in duplicate by a duly authorized officer of such Lender accompanied by three (3) accurate and complete duly executed originals of either Form W-8BEN of the Internal Revenue Service or Form W-8ECI of the Internal Revenue Service, whichever is appropriate, substantially in a form satisfactory to Borrower and Agent, before or promptly upon the occurrence of any event requiring a change in the most recent certificate or Internal Revenue Service form previously delivered by it to Borrower and Agent pursuant to this Section 2.03(j). Further, each Lender which delivers a certificate accompanied by Form W-8BEN of the Internal Revenue Service covenants and agrees to deliver to Borrower and Agent within fifteen (15) days prior to January 1, 2003, and every third (3rd) anniversary of such date thereafter, on which this Agreement is still in effect, another such certificate and three (3)

accurate and complete original signed copies of Form W-8BEN (or any successor form or forms required under the Internal Revenue Code or the applicable regulations promulgated thereunder), and each Lender that delivers a certificate accompanied by Form W-8ECI of the Internal Revenue Service covenants and agrees to deliver to Borrower and Agent within fifteen (15) days prior to the beginning of each subsequent taxable year of such Lender during which this Agreement is still in effect, another such certificate and three (3) accurate and complete original signed copies of Internal Revenue Service Form W-8ECI (or any successor form or forms required under the Internal Revenue Code or the applicable regulations promulgated hereunder). If (i) any Lender is required under this Section 2.03(j) to provide a certificate or other evidence described above and fails to deliver to Borrower and Agent such certificate or other evidence or (ii) any Lender delivers a certificate to the effect that, as a result of the adoption of or any change in any law, treaty, rule, regulation, guideline or determination of a Governmental Authority after the date such Lender became a party hereto, such Lender is not capable of receiving payments of interest hereunder without deduction or withholding of United States federal income tax as specified therein and that it is not capable of recovering the full amount of the same from a source other than Borrower, then, to the extent required by law, as the sole consequence of such Lender's failure to deliver the certificate described in (i) above or such Lender's delivery of the certificate described in (ii) above, Borrower shall be entitled to deduct or withhold taxes from the

payments owed to such Lender.

2.04 Fees.

(a) Intentionally Deleted.

(b) Unused Facility Fee. Until the Obligations are paid in full and this Agreement is terminated or, if sooner, the date the Commitments terminate, and subject to Section 11.04(b), Borrower shall pay to Agent, for the account of each Lender, an Unused Facility Fee accruing from and after the Closing Date at the rate described below upon the amount during each calendar quarter of (i) the Facility, minus (ii) the sum of (A) the average daily aggregate principal balance of all Loans then outstanding other than Swingline Loans and (B) the average daily aggregate face amount of all outstanding Letters of Credit (the "Unused Amount"). The Unused Facility Fee will be calculated and will accrue at the rate per annum of fifteen one-hundredths of one percent (.15%). Subject to Section 11.04(b), each Lender shall be entitled to receive its Pro Rata Share of such Unused Facility Fee. All such Unused Facility Fees payable under this paragraph shall be payable in arrears on the fifth Business Day in each calendar quarter beginning with the first calendar quarter after the Closing Date.

(c) Arrangement and Administrative Agency Fees. Borrower shall pay Agent such fees as are provided for in the separate fee agreement between Agent and Borrower, as in existence from time to time.

(d) Letter of Credit Fee. With respect to each Letter of Credit, Borrower agrees to pay to Agent (i) a letter of credit fee equal to the Applicable Margin on the face amount of such Letter of Credit for the term of such Letter of Credit to be distributed by Agent to each Lender according to its Pro Rata Share payable in arrears on the fifth Business Day in each calendar quarter beginning with the first calendar quarter after the Closing Date and ending on the date of the expiration, return or termination of such Letter of Credit if such date is a date

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other than the first Business Day of a calendar month and (ii) a non-refundable issuing fee of \$500.00 solely for the account of Issuing Lender, payable in full on the date of issuance thereof.

(e) Payment of Fees. The fees described in this Section 2.04 represent compensation for services rendered and to be rendered separate and apart from the lending of money or the provision of credit and do not constitute compensation for the use, detention or forbearance of money, and the obligation of Borrower to pay the fees described herein shall be in addition to, and not in lieu of, the obligation of Borrower to pay interest, other fees and expenses otherwise described in this Agreement. All fees shall be payable when due in California in immediately available funds and shall be non-refundable when paid. If Borrower fails to make any payment of fees or expenses specified or referred to in this Agreement due to Agent or Lenders, including without limitation those referred to in this Section 2.04 or otherwise under this Agreement or any separate fee agreement between Borrower and Agent relating to this Agreement, when due, the amount due shall bear interest until paid at the Base Rate and, after five (5) days at the rate specified in Section 2.03(d) (but not to exceed the maximum rate permitted by applicable law) and shall constitute part of the Obligations. All fees described in this Section 2.04 which are expressed as a per annum charge shall be calculated on the basis of the actual number of days elapsed in a three hundred sixty (360) day year.

2.05 Payments.

(a) Voluntary Prepayments. Borrower may, upon not less than three (3) Business Days prior written notice (or with written notice not later than 1:00 P.M. (California time) on the same Business Day in the case of a Swingline Loan), at any time and from time to time, prepay any Loans, without



premium or penalty (other than as set forth in Section 2.03(h)(iii)), in whole or in part in amounts not less than One Hundred Thousand Dollars (\$100,000) or integral multiples of Twenty-Five Thousand Dollars (\$25,000) in excess of One Hundred Thousand Dollars (\$100,000). Any notice of prepayment given to Agent under this Section 2.05(a) shall specify the date of prepayment and the aggregate principal amount of the prepayment. All prepayments of principal shall be accompanied by a payment of all accrued and unpaid interest thereon.

(b) Manner and Time of Payment. All payments of principal, interest and fees hereunder payable to Agent, Swingline Lender, Issuing Lender or the Lenders shall be made without condition or reservation of right and free of set-off or counterclaim, in Dollars and by (i) wire transfer (pursuant to Agent's written wire transfer instructions) of immediately available funds, delivered to Agent not later than 11:00 A.M. (California time) (or 2:00 P.M. (California time) in the case of a Swingline Loan) on the date due; and funds received by Agent after that time and date shall be deemed to have been paid on the next succeeding Business Day or (ii) by check (pursuant to Agent's written check payment instructions) delivered to Agent, such check and the payment intended to be covered thereby to be deemed to have been paid on the date Agent receives immediately available funds therefor. All payments of principal, interest and fees hereunder shall be made by (i) wire transfer of immediately available funds to Wells Fargo Bank, N.A. (ABA number 121000248) for credit to account number AC2963507207, reference MHC Operating Limited Partnership, loan number 6023AMC with telephonic notice to Elizabeth MacDonald at (310) 335-9525 or (ii) check payable to Wells Fargo Bank, N.A., and delivered to Agent at 2120 E. Park Place, Suite 100, El Segundo, California 90245, Attn: Elizabeth

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MacDonald, or to such other bank, account or address as Agent may specify in a written notice to Borrower.

(c) Payments on Non-Business Days. Whenever any payment to be made by Borrower hereunder shall be stated to be due on a day which is not a Business Day, payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder and of any of the fees specified in Section 2.04, as the case may be.

2.06 Increased Capital. If either (i) the introduction of or any change in or in the interpretation of any law or regulation or (ii) compliance by Agent, Swingline Lender, Issuing Lender or any Lender with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law and whether or not the failure to comply therewith would be unlawful) made or issued after the Closing Date affects or would affect the amount of capital required or expected to be maintained by Agent, Swingline Lender, Issuing Lender or such Lender or any corporation controlling Agent, Swingline Lender, Issuing Lender or such Lender, and Agent, Swingline Lender, Issuing Lender or such Lender determines that the amount of such capital is increased by or based upon the existence of the obligations of Agent, Swingline Lender, Issuing Lender or such Lender, then, upon demand by Agent, Swingline Lender, Issuing Lender or such Lender, Borrower shall immediately pay to Agent, Swingline Lender, Issuing Lender or such Lender, from time to time as specified by Agent, Swingline Lender, Issuing Lender or such Lender, additional amounts sufficient to compensate Agent, Swingline Lender, Issuing Lender or such Lender in light of such circumstances, to the extent that Agent, Swingline Lender, Issuing Lender or such Lender reasonably determines such increase in capital to be allocable to the existence of the obligations of Agent, Swingline Lender, Issuing Lender or such Lender hereunder and to the extent Agent, Swingline Lender, Issuing Lender or such Lender generally imposes such amounts on other borrowers in similar circumstances. A certificate as to such amounts submitted to Borrower by Agent, Swingline Lender, Issuing Lender or such Lender shall, in the absence of manifest error, be conclusive and binding for all purposes.

2.07 Notice of Increased Costs. Each of Agent, Swingline Lender, Issuing Lender and the Lenders agrees that, as promptly as reasonably practicable after it becomes aware of the occurrence of an event or the existence of a condition which would cause it to be affected by any of the events or conditions described in Section 2.03(g) or (h), or Section 2.06, it will notify Borrower and provide in such notice a reasonably detailed calculation of the amount due from Borrower, and provide a copy of such notice to Agent, of such event and the possible effects thereof. If Agent, Swingline Lender, Issuing Lender or the affected Lender shall fail to notify Borrower of the occurrence of any such event or the existence of any such condition within ninety (90) days following the end of the month during which such event occurred or such condition arose, then Borrower's liability for any amounts described in said Sections 2.03(g) and (h) and 2.06 incurred by Agent, Swingline Lender, Issuing Lender or such affected Lender as a result of such event or condition shall be limited to those attributable to the period occurring subsequent to the ninetieth (90th) day prior to the date upon which Agent, Swingline Lender, Issuing Lender or such affected Lender actually notified Borrower of such event or condition.

2.08 Option to Replace Lenders.

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(a) Lenders. If any Lender shall make any demand for payment or reimbursement pursuant to Section 2.03(g), Section 2.03(h) or Section 2.06, then, provided that (a) there does not then exist any Unmatured Event of Default or Event of Default and (b) the circumstances resulting in such demand for payment or reimbursement are not applicable to all Lenders, Borrower may terminate the Commitment of such Lender, in whole but not in part, by (i) giving such Lender and Agent not less than three (3) Business Days prior written notice thereof, which notice shall be irrevocable and effective only upon receipt thereof by such Lender and Agent and shall specify the effective date of such termination, (ii) paying to such Lender (and there shall become due and payable) on such date the outstanding principal amount of all Loans made by such Lender, all interest thereon, and all other Obligations owed to such Lender, including, without limitation, amounts owing under Sections 2.03(g), 2.03(h)(iii), 2.04 and 2.06, if any, and (iii) pursuant to the provisions of Section 11.13, proposing the introduction of a replacement Lender reasonably satisfactory to Agent, or obtaining the agreement of one or more existing Lenders, to assume the entire amount of the Commitment of the Lender whose Commitment is being terminated, on the effective date of such termination. Upon the satisfaction of all of the foregoing conditions, such Lender which is being terminated pursuant to this Section 2.08 shall cease to be a "Lender" for purposes of this Agreement provided that Borrower shall continue to be obligated to such Lender under Sections 12.01 and 12.02 (and any other indemnifications contained herein or in any other Loan Document) with respect to or on account of unpaid, unliquidated, unknown or similar claims or liabilities accruing prior to such Lender ceasing to be a "Lender" for purposes of this Agreement.

(b) Agent, Swingline Lender and Issuing Lender. If Agent, Swingline Lender or Issuing Lender shall make any demand for payment or reimbursement pursuant to Section 2.03(g), Section 2.03(h) or Section 2.06, then, provided that (a) there does not then exist any Unmatured Event of Default or Event of Default and (b) the circumstances resulting in such demand for payment or reimbursement are not applicable to all Lenders, Borrower may remove Agent, Swingline Lender and Issuing Lender by (i) giving the Lenders and Agent not less than thirty (30) Business Days prior written notice thereof, and (ii) paying to Agent, Swingline Lender and Issuing Lender (and there shall become due and payable) on such date all other Obligations owed to Agent, Swingline Lender and Issuing Lender, including, without limitation, amounts owing under Sections 2.03(g), 2.03(h), 2.04 and 2.06, if any. Agent, Swingline Lender and Issuing Lender shall be replaced in accordance with the provisions of Section 11.09 hereof.

2.09 Letters of Credit.

(a) Letter of Credit Availability. Subject to the terms and conditions set forth in this Agreement, at any time and from time to time through the date that is thirty (30) days prior to the Maturity Date, Issuing Lender shall issue such Letters of Credit for the account of Borrower as Borrower may request in accordance with this Section 2.09; provided that (i) upon issuance of such Letters of Credit, the sum of the aggregate principal amount of all outstanding Loans (including Swingline Loans) plus the aggregate face amount of all outstanding Letters of Credit shall not exceed Loan Availability, provided, that if a Base Rate Loan is being made pursuant to Section 2.09(e) hereof to reimburse Issuing Lender for a drawn Letter of Credit, to avoid a duplicative reduction in the amount of Loan Availability, the drawn Letter of Credit shall not be considered outstanding; (ii) the aggregate face amount of all outstanding Letters of Credit shall not exceed Thirty Million Dollars (\$30,000,000); and (iii) unless all Lenders otherwise consent in writing, the term of any Letter of Credit shall not extend or be extended beyond the

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date which is ten (10) days prior to the Maturity Date and no Letter of Credit shall contain an automatic extension or renewal clause. Use of funds drawn under Letters of Credit shall be subject to the same conditions as those for use of Loan proceeds set forth in Section 7.01(i) hereof.

(b) Request for Letter of Credit. Borrower shall deliver to Agent and Issuing Lender a duly executed letter of credit application substantially in the form attached as Exhibit H hereto (a "Letter of Credit Application") not later than 10:00 A.M., (California time), at least five (5) Business Days prior to the date upon which a requested Letter of Credit is to be issued. Borrower shall further deliver to Agent and Issuing Lender such additional instruments and documents as Issuing Lender may reasonably require, in conformity with customary and commercially reasonable practices or law, in connection with the issuance of such Letter of Credit.

(c) Issuance of Letters of Credit. Subject to the conditions set forth in this Agreement, Issuing Lender shall issue the Letter of Credit on or before 5:00 P.M. (California time), on or before the day which is five (5) Business Days following receipt of the documents last due pursuant to Section 2.09(b) hereof in respect thereof. Upon issuance of a Letter of Credit, Issuing Lender shall promptly notify Lenders of the amount and terms thereof. Issuing Lender shall provide copies of each Letter of Credit to Lenders promptly following issuance thereof and shall notify Lenders promptly of all payments, reimbursements, expirations, negotiations, transfers and other activity with respect to outstanding Letters of Credit.

(d) Participations. Each Lender, upon issuance by Issuing Lender of a Letter of Credit in accordance with the provisions of this Agreement, shall be deemed to have purchased without recourse a risk participation from Issuing Lender in such Letter of Credit and the obligations arising thereunder, in each case in an amount equal to its Pro Rata Share of the obligations under such Letter of Credit, and shall absolutely, unconditionally and irrevocably assume, as primary obligor and not as surety, and be obligated to pay to Issuing Lender therefor and discharge when due, its Pro Rata Share of the obligations arising under such Letter of Credit.

(e) Reimbursement. In the event of any drawing or request for drawing under any Letter of Credit, Issuing Lender will promptly notify Borrower and Agent thereof. Unless Borrower shall notify Issuing Lender of its intent to otherwise reimburse Issuing Lender immediately upon receipt of notice from Issuing Lender of a drawing under a Letter of Credit, Borrower shall be deemed to have requested Base Rate Loans in the amount of the drawing as provided in subsection (f) hereof, the proceeds of which will be used to satisfy the reimbursement obligations. Borrower shall reimburse Issuing Lender on the day of drawing under any Letter of Credit (either with the proceeds of a Loan obtained hereunder or otherwise) in same day funds as provided herein. If

Borrower shall fail to reimburse Issuing Lender as provided hereinabove, the unreimbursed amount of such drawing shall bear interest at a per annum rate equal to the Base Rate plus two percent (2%). Borrower's reimbursement obligations hereunder shall be absolute and unconditional under all circumstances irrespective of any rights of set-off, counterclaim or defense to payment Borrower may claim or have against Issuing Lender, Agent, the Lenders, the beneficiary of the Letter of Credit drawn upon or any other Person, including, without limitation, any defense based on any failure of Borrower to receive consideration or the legality, validity, regularity or unenforceability of the Letter of Credit; provided, however, that (i) the Borrower shall not be obligated to reimburse Issuing

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Lender and (ii) Lenders shall not be obligated to fund Loans or purchase participations hereunder in reimbursement of Issuing Lender, for any wrongful payment made by Issuing Lender under a Letter of Credit as a result of acts or omissions constituting bad faith, willful misconduct or gross negligence on the part of Issuing Lender. The Letter of Credit Obligations will be evidenced by the Letter of Credit Note.

(f) Repayment with Loans. On any day on which Borrower shall have requested, or been deemed to have requested, Base Rate Loans to reimburse a drawing under a Letter of Credit, Agent shall give notice to the Lenders that such Loans have been requested or deemed requested in connection with a drawing under a Letter of Credit, in which case such Loans (collectively, a "Letter of Credit Mandatory Borrowing") shall be immediately made by all Lenders (without giving effect to any termination of the Commitments pursuant to Section 10.02 hereof) pro rata based on each Lender's Pro Rata Share and the proceeds thereof shall be paid directly to Issuing Lender for application to the respective Letter of Credit Obligations. Each Lender hereby irrevocably agrees to make such Loans promptly upon any such request or deemed request in the amount and in the manner specified in the preceding sentence and on the same such date (or the next Business Day if such notice is received after 10:00 A.M. (California time)) notwithstanding (i) the amount of the Letter of Credit Mandatory Borrowing may not comply with the minimum amount for Borrowings otherwise required hereunder, (ii) whether any conditions specified in Section 4.02 are then satisfied, (iii) whether an Event of Default or Unmatured Event of Default then exists, (iv) failure of any such request or deemed request for a Borrowing to be made by the time otherwise required in Section 2.01 hereof, (v) the date of such Letter of Credit Mandatory Borrowing (provided that such date must be a Business Day), or (vi) any termination of the Commitments immediately prior to such Letter of Credit Mandatory Borrowing or contemporaneously therewith. In the event that any Letter of Credit Mandatory Borrowing cannot for any reason occur in respect of a Letter of Credit on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code with respect to Borrower), then each Lender hereby agrees that it shall forthwith fund (as of the date the Letter of Credit Mandatory Borrowing would otherwise have occurred, but adjusted for any payments received from Borrower on or after such date and prior to such funding) its participation interest in the outstanding obligations arising in connection with such Letter of Credit, provided that (A) all interest payable on Borrower's reimbursement obligation with respect to such Letter of Credit shall be for the account of Issuing Lender until but excluding the day upon which the Letter of Credit Mandatory Borrowing would otherwise have occurred, and (B) in the event of a delay between the day upon which the Letter of Credit Mandatory Borrowing would otherwise have occurred and the time any funding of a participation pursuant to this sentence is actually made, the funding Lender shall be required to pay to the Issuing Lender interest on the principal amount of such participation for each day from and including the day upon which the Letter of Credit Mandatory Borrowing would otherwise have occurred to but excluding the date of funding of such participation, at the rate equal to the Federal Funds Rate, for the two (2) Business Days after the date the Letter of Credit Mandatory Borrowing would otherwise have occurred, and thereafter at a rate equal to the Base Rate.

(g) Modification, Extension. The issuance of any supplement, modification, amendment, renewal, or extension to any Letter of Credit shall, for purposes hereof, be treated in all respects the same as if it were the issuance of a new Letter of Credit hereunder.

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(h) Uniform Customs and Practices. Issuing Lender may have the Letters of Credit be subject to The Uniform Customs and Practice for Documentary Credits, as published as of the date of issue by the International Chamber of Commerce (the "UCP"), in which case the UCP may be incorporated therein and deemed in all respects to be a part thereof.

(i) Collateralization at Termination Date. Upon the occurrence of the Termination Date prior to the expiration of all Letters of Credit, Borrower shall provide to Issuing Lender a standby letter of credit issued by a bank with a rating of its senior unsecured debt obligations of not less than A by Moody's, in form and substance satisfactory to Issuing Lender, in favor of Issuing Lender in a face amount equal to the outstanding Letters of Credit on that date, or shall make other provisions satisfactory to Issuing Lender and Agent for the full collateralization, by cash or cash equivalent, of such outstanding Letters of Credit. In the event of failure of Borrower to comply with the requirement of this Section 2.09(i), such portion of the face amount of all outstanding Letters of Credit as to which Borrower has failed to comply shall be deemed to be immediately due and payable.

(j) Limitation of Liability. Borrower assumes all risks of the acts or omissions of any beneficiary or transferee of any Letter of Credit with respect to its use of such Letter of Credit absent the bad faith, gross negligence or willful misconduct of Issuing Lender. Neither Issuing Lender, Agent, any Lender nor any of their respective officers, directors, employees or agents shall be liable or responsible for, nor shall Borrower's obligations hereunder in respect of such Letters of Credit be impaired as a result of any of the following absent the bad faith, gross negligence or willful misconduct of Issuing Lender:

(i) any lack of validity or enforceability of any Letter of Credit or any other agreement or instrument relating thereto (such Letter of Credit and any other agreement or instrument relating thereto being, collectively, the "Letter of Credit Documents");

(ii) the use that may be made of any Letter of Credit or any acts or omissions of any beneficiary or transferee in connection therewith;

(iii) any statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) the existence of any claim, setoff, defense or other right that Borrower may have at any time against any beneficiary or any transferee of a Letter of Credit (or any Persons for whom any such beneficiary or any such transferee may be acting), Issuing Lender or any other Person, whether in connection with the transactions contemplated by the Letter of Credit Documents or any unrelated transaction;

(v) failure of any documents to bear any reference or adequate reference to the Letter of Credit; or

(vi) any other circumstances whatsoever in making or failing to make payment under any Letter of Credit.

In furtherance and not in limitation of the foregoing, Issuing Lender may accept documents that appear on their face to be in order, without responsibility for

further investigation, regardless of

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any notice or information to the contrary, absent the bad faith, gross negligence or willful misconduct of Issuing Lender.

(k) Lenders. Any action taken or omitted to be taken by Issuing Lender under or in connection with any Letter of Credit, if taken or omitted in the absence of bad faith, gross negligence or willful misconduct, shall not put Issuing Lender under any resulting liability to any Lender or relieve that Lender of its obligations hereunder to Issuing Lender. In determining whether to pay under any Letter of Credit, Issuing Lender shall have no obligations to Lenders other than to confirm that any documents required to be delivered under such Letter of Credit appear to have been delivered and that they appear to comply on their face with the requirements of such Letter of Credit.

(l) Indemnification. Borrower shall indemnify and hold harmless Issuing Lender, Agent and Lenders from and against any and all claims, damages, losses, liabilities, reasonable costs and expenses of any kind whatsoever, including reasonable fees and expenses of attorneys that such indemnified Person may incur, together with all reasonable costs and expenses resulting from the compromise or defense of any claims or liabilities hereinafter described, by reason of or in connection with (i) the execution and delivery or transfer of, or payment or failure to pay under, any Letter of Credit, (ii) any suit, action or proceeding brought by any Person to require or present payment under any Letter of Credit, or (iii) any breach by Borrower of any warranty, covenant, term or condition in, or the occurrence of any default under, any Letter of Credit or any related contract; provided, however, that Borrower shall not be required to indemnify Issuing Lender, Agent or any Lender for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct, gross negligence, bad faith or fraud of such indemnified Person; and provided, further, that Issuing Lender will be liable to Borrower for any damages suffered by Borrower as a result of Issuing Lender's grossly negligent or willful failure to pay under any Letter of Credit after the presentment to it of documentation in strict compliance with the terms and conditions of the Letter of Credit and absent any challenge by any Person (other than Issuing Lender or any of its affiliates) to the making of such payment.

#### 2.10 Swingline Loans

(a) Swingline Availability. Subject to the terms and conditions set forth in this Agreement, Swingline Lender agrees to make certain revolving loans to Borrower (each a "Swingline Loan" and, collectively, the "Swingline Loans") from time to time during the period from the Closing Date to the fifth day preceding the Maturity Date; provided, however, that the aggregate amount of Swingline Loans outstanding at any time shall not exceed the lesser of (i) THIRTY MILLION DOLLARS (\$30,000,000), and (ii) the excess of Loan Availability over the sum of the aggregate principal amount of all outstanding Loans (excluding Swingline Loans) plus the aggregate face amount of all outstanding Letters of Credit, provided, that if a Base Rate Loan is being made pursuant to Section 2.09(e) hereof to reimburse Issuing Lender for a drawn Letter of Credit, to avoid a duplicative reduction in the amount of Loan availability, the drawn Letter of Credit shall not be considered outstanding. Subject to the limitations set forth herein, any amounts repaid in respect of Swingline Loans may be reborrowed.

(b) Swingline Borrowings.

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(i) Notice of Borrowing. Whenever Borrower desires to

borrow under this Section 2.10, Borrower shall give Swingline Lender and Agent at Wells Fargo Real Estate Group Disbursement Center, 2120 East Park Place, Suite 100, El Segundo, California 90245, with a copy to Wells Fargo Bank, N.A., 123 North Wacker Drive, Suite 1900, Chicago, Illinois 60606, Attn: Account Officer, or such other address as Agent shall designate, an original or facsimile Notice of Borrowing no later than 11:00 A.M. (California time) on the proposed date of such borrowing (and confirmed by telephone by such time), specifying (A) that a Swingline Loan is being requested, (B) the amount of such Swingline Loan, (C) the proposed date of such Swingline Loan, which shall be a Business Day, and (D) stating that no Event of Default or Unmatured Event of Default has occurred and is continuing both before and after giving effect to such Swingline Loan. Such notice shall be irrevocable.

(ii) Minimum Amounts; Frequency of Swingline Loans. Each Swingline Loan shall be in a minimum principal amount of \$1,000,000, or an integral multiple of \$100,000 in excess thereof. Swingline Loans shall be available no more frequently than six (6) times in any month.

(iii) Making of Swingline Loans. Swingline Lender shall make the proceeds of each Swingline Loan available to Borrower in El Segundo, California on the applicable Funding Date in Dollars and in immediately available funds not later than 1:00 P.M. (California time) on such Funding Date to Borrower's account, at Bank of America, Account Number 75-01943 in Chicago, Illinois or such other account specified in the Notice of Borrowing and acceptable to Agent.

(iv) Repayment of Swingline Loans. Each Swingline Loan shall be due and payable on the earliest of (A) five (5) days from the date of the applicable Funding Date for such Swingline Loan, (B) the date of the next Borrowing under Section 2.01 hereof (other than a Letter of Credit Mandatory Borrowing) or (C) the Termination Date. If, and to the extent, any Swingline Loans shall be outstanding on the date of any Borrowing under Section 2.01 hereof (other than a Letter of Credit Mandatory Borrowing), such Swingline Loans shall first be repaid from the proceeds of such Borrowing prior to the disbursement of the same to Borrower. If, and to the extent, a Borrowing under Section 2.01 hereof (other than a Letter of Credit Mandatory Borrowing) is not requested prior to the Termination Date or the end of the five (5) day period after a Swingline Loan is made, Borrower shall be deemed to have requested Base Rate Loans in the amount of the applicable Swingline Loan then outstanding, the proceeds of which shall be used to repay such Swingline Loan to the Swingline Lender. In addition, the Swingline Lender may, at any time, in its sole discretion, by written notice to Borrower and Agent, demand repayment of its Swingline Loans by way of Base Rate Loans, in which case Borrower shall be deemed to have requested Base Rate Loans in the amount of such Swingline Loans then outstanding, the proceeds of which shall be used to repay such Swingline Loans to the Swingline Lender. Any Borrowing which is deemed requested by Borrower in accordance with this Section 2.10(b)(iv) is hereinafter referred to as a "Swingline Mandatory Borrowing". Each Lender hereby irrevocably agrees to make Base Rate Loans in accordance with its Pro Rata Share promptly upon receipt of notice from the Swingline Lender of any such deemed request for a Swingline Mandatory Borrowing in the amount and in the manner specified in the preceding sentences and on the date such

notice is received by such Lender (or the next Business Day if such notice is received after 10:00 A.M. (California time)) notwithstanding (I) the amount of the Swingline Mandatory Borrowing may not comply with the minimum amount for Borrowings otherwise required hereunder, (II) whether any conditions specified in Section 4.02 hereof are then satisfied, (III) whether an Event of Default or Unmatured Event of

Default then exists, (IV) failure of any such deemed request for a Borrowing to be made by the time otherwise required in Section 2.01 hereof, (V) the date of such Swingline Mandatory Borrowing (provided that such date must be a Business Day), or (VI) any termination of the Commitments immediately prior to such Swingline Mandatory Borrowing or contemporaneously therewith; provided, however, that no Lender shall be obligated to make any Loans under this Section 2.10(b)(iv) if an Event of Default or Unmatured Event of Default then exists and the applicable Swingline Loan was made by the Swingline Lender without receipt of a written Notice of Borrowing in the form specified in subclause (i) above or after Agent had delivered a notice of an Event of Default or Unmatured Event of Default which had not been rescinded.

(v) Purchase of Participations. In the event that any Swingline Mandatory Borrowing cannot for any reason occur on the date otherwise required above (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code with respect to Borrower), then each Lender hereby agrees that it shall forthwith purchase (as of the date the Swingline Mandatory Borrowing would otherwise have occurred, but adjusted for any payment received from Borrower on or after such date and prior to such purchase) from the Swingline Lender such participations in the outstanding Swingline Loans as shall be necessary to cause each such Lender to share in such Swingline Loans ratably based upon its Pro Rata Share, provided that (A) all interest payable on the Swingline Loans with respect to any participation shall be for the account of the Swingline Lender until but excluding the day upon which the Swingline Mandatory Borrowing would otherwise have occurred, and (B) in the event of a delay between the day upon which the Swingline Mandatory Borrowing would otherwise have occurred and the time any purchase of a participation pursuant to this sentence is actually made, the purchasing Lender shall be required to pay to the Swingline Lender interest on the principal amount of such participation for each day from and including the day upon which the Swingline Mandatory Borrowing would otherwise have occurred to but excluding the date of payment for such participation, at the rate equal to the Federal Funds Rate, for the two (2) Business Days after the date the Swingline Mandatory Borrowing would otherwise have occurred, and thereafter at a rate equal to the Base Rate. Notwithstanding the foregoing, no Bank shall be obligated to purchase a participation in any Swingline Loan if an Event of Default or Unmatured Event of Default then exists and such Swingline Loan was made by the Swingline Lender without receipt of a written Notice of Borrowing in the form specified in subclause (i) above or after Agent had delivered a notice of an Event of Default or Unmatured Event of Default which had not been rescinded.

(c) Interest Rate. Each Swingline Loan shall bear interest at a rate per annum equal to the Base Rate minus 1.5% per annum.

ARTICLE III.  
EXTENSION OPTION

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3.01 Extension Option. At the written request of Borrower made at least thirty (30) days prior to the Initial Maturity Date, the Maturity Date shall be extended to the one-year anniversary of the Initial Maturity Date (the "Extended Maturity Date") provided that the following conditions are satisfied:

(a) no Event of Default or Unmatured Event of Default shall have occurred and be continuing as of the Initial Maturity Date;

(b) all representations and warranties made by Borrower and the REIT contained in this Agreement and the other Loan Documents shall be true and correct in all material respects as of the Initial Maturity Date except



to the extent they related to a specific date;

(c) Agent shall have received Officer's Certificates of the REIT dated as of the Initial Maturity Date stating that the executive officer who is the signatory thereto, which officer shall be the chief executive officer or the chief financial officer of the REIT, has reviewed, or caused under his supervision to be reviewed, the terms of this Agreement and the other Loan Documents, and has made, or caused to be made under his supervision, a review in reasonable detail of the transactions and condition of Borrower, the REIT, the Subsidiaries, and the Agreement Parties, and that (A) such review has not disclosed the existence as of the date of such Officer's Certificate, and that the signer does not have knowledge of the existence as of the date of such Officer's Certificate, of any condition or event which constitutes an Event of Default or Unmatured Event of Default and (B) all representations and warranties made by such entities contained in this Agreement and the other Loan Documents are true and correct in all material respects as of the date of such Officer's Certificate except to the extent they relate to a specific date; and

(d) on or before the Initial Maturity Date, Agent shall have received, on behalf of Agent and Lenders, an extension fee in the amount of one-fourth of one percent (0.25%) of the amount of the Facility.

ARTICLE IV.  
CONDITIONS TO LOANS

4.01 Intentionally Omitted.

4.02 Conditions Precedent to All Loans and Issuance of Letters of Credit. The obligation of each Swingline Lender to make any Swingline Loan requested to be made by it, the obligation of Lender to make any Loan requested to be made by it, and the obligation of Issuing Lender to issue any Letter of Credit requested to be issued by it, on any date, is subject to satisfaction of the following conditions precedent as of such date:

(a) Documents. With respect to a request for a Loan, Agent shall have received in accordance with the provisions of Section 2.01(b) hereof or Section 2.10 hereof (as applicable), an original and duly executed Notice of Borrowing. With respect to a request for a Letter of Credit, Agent and Issuing Bank shall have received in accordance with the provisions of Section 2.09(b) hereof, an original and duly executed Letter of Credit Application together with such other documents as shall be required under Section 2.09(b) hereof.

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(b) Additional Matters. As of the Funding Date for any Loan or the issuance date of any Letter of Credit and after giving effect to the Loans and/or Letters of Credit being requested:

(i) Representations and Warranties. All of the representations and warranties of Borrower and the REIT contained in this Agreement and in any other Loan Document (other than representations and warranties which expressly speak only as of a different date) shall be true and correct in all material respects on and as of such Funding Date or issuance date, as though made on and as of such date;

(ii) No Default. No Event of Default or Unmatured Event of Default shall have occurred and be continuing or would result from the making of the requested Loan or issuance of the requested Letter of Credit and all of the financial covenants contained in Articles VIII and IX shall be satisfied; and

(iii) No Material Adverse Change. No change shall have occurred which shall have a Material Adverse Effect.

Each submission by Borrower to Agent of a Notice of Borrowing with respect to a Loan or a request for a Letter of Credit and the acceptance by Borrower of the proceeds of each such Loan made hereunder or the issuance of such Letter of Credit hereunder shall constitute a representation and warranty by Borrower as of the Funding Date in respect of such Loan or the date such Letter of Credit is issued that all the conditions contained in this Section 4.02 have been satisfied.

ARTICLE V.  
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties as to Borrower.

Borrower hereby represents and warrants to Agent, Swingline Lender, Issuing Lender and Lenders as follows:

(a) Organization; Partnership Powers. Borrower (i) is a limited partnership duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, (ii) is duly qualified to do business as a foreign limited partnership and in good standing under the laws of each jurisdiction in which the nature of its business requires it to be so qualified, except for those jurisdictions where failure to so qualify and be in good standing would not have a Material Adverse Effect and (iii) has all requisite partnership power and authority to own, operate and encumber its property and assets and to conduct its business as presently conducted and as proposed to be conducted in connection with and following the consummation of the transactions contemplated by the Loan Documents.

(b) Authority. Borrower has the requisite partnership power and authority to execute, deliver and perform each of the Loan Documents to which it is or will be a party. The execution, delivery and performance thereof, and the consummation of the transactions contemplated thereby, have been duly approved by the general partner of Borrower, and no other partnership proceedings or authorizations on the part of Borrower or its general or limited partners are necessary to consummate such transactions. Each of the Loan Documents to which Borrower is a party has been duly executed and delivered by Borrower and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to

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bankruptcy, insolvency and other laws affecting creditors' rights generally and general equitable principles.

(c) Ownership of Borrower. Schedule 5.01(c) sets forth the general partners of Borrower and their respective ownership percentages as of the date hereof. Except as set forth in the partnership agreement of Borrower, no partnership interests (or any securities, instruments, warrants, option or purchase rights, conversion or exchange rights, calls, commitments or claims of any character convertible into or exercisable for partnership interests) of Borrower are subject to issuance under any security, instrument, warrant, option or purchase rights, conversion or exchange rights, call, commitment or claim of any right, title or interest therein or thereto. To Borrower's knowledge, all of the partnership interests in Borrower have been issued in compliance with all applicable Requirements of Law.

(d) No Conflict. The execution, delivery and performance by Borrower of the Loan Documents to which it is or will be a party, and each of the transactions contemplated thereby, do not and will not (i) conflict with or violate Borrower's limited partnership agreement or Certificate of Limited Partnership or other organizational documents, as the case may be, or the organizational documents of any Subsidiary of Borrower or (ii) conflict with, result in a breach of or constitute (with or without notice or lapse of time or both) a default under any Requirement of Law, Contractual Obligation or Court Order of or binding upon Borrower or any of its Subsidiaries, or require termination of any such Contractual Obligation, the consequences of which conflict or breach or default or termination would have a Material Adverse

Effect, or result in or require the creation or imposition of any Lien whatsoever upon any Property (except as contemplated herein).

(e) Consents and Authorizations. Borrower has obtained all consents and authorizations required pursuant to its Contractual Obligations with any other Person, the failure of which to obtain would have a Material Adverse Effect, and has obtained all consents and authorizations of, and effected all notices to and filings with, any Governmental Authority necessary to allow Borrower to lawfully execute, deliver and perform its obligations under the Loan Documents to which Borrower is a party.

(f) Governmental Regulation. Borrower is not subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, the Investment Company Act of 1940 or any other federal or state statute or regulation such that its ability to incur indebtedness is limited or its ability to consummate the transactions contemplated by the Loan Documents is materially impaired.

(g) Prior Financials. The Consolidated and Combined Balance Sheet as of September 30, 2003, the Consolidated and Combined Statement of Operations for the Quarter Ended September 30, 2003, and the Consolidated and Combined Statement of Cash Flows for the Quarter Ended September 30, 2003 of the REIT contained in the Form 10-Q Quarterly Report of the REIT as of September 30, 2003 (the "Pre-Closing Financials") delivered to Agent prior to the date hereof were prepared in accordance with GAAP in effect on the date such Pre-Closing Financials were prepared and fairly present the assets, liabilities and financial condition of the REIT, on a consolidated basis, at such date and the results of its operations and its cash flows, on a consolidated basis, for the period then ended.

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(h) Financial Statements; Projections and Forecasts. Each of the Financial Statements to be delivered to Agent pursuant to Sections 6.01(a) and (b), (i) has been, or will be, as applicable, prepared in accordance with the books and records of the REIT, on a consolidated basis, and (ii) either fairly present, or will fairly present, as applicable, the financial condition of the REIT, on a consolidated basis, at the dates thereof (and, if applicable, subject to normal year-end adjustments) and the results of its operations and cash flows, on a consolidated basis, for the period then ended. Each of the projections delivered to Agent (A) has been, or will be, as applicable, prepared by the REIT and the REIT's financial personnel in light of the past business and performance of the REIT, on a consolidated basis and (B) represent, or will represent, as of the date thereof, the reasonable good faith estimates of such personnel.

(i) Litigation; Adverse Effects.

(i) There is no action, suit, proceeding, governmental investigation or arbitration, at law or in equity, or before or by any Governmental Authority, pending, or to the best of Borrower's knowledge, threatened against Borrower or any of its Subsidiaries or any of their respective Properties, in which there is a reasonable possibility of an adverse decision that could have a Material Adverse Effect; and

(ii) Neither Borrower nor any of its Subsidiaries is (A) in violation of any Requirement of Law, which violation has a Material Adverse Effect, or (B) subject to or in default with respect to any Court Order which has a Material Adverse Effect.

(j) No Material Adverse Change. Since September 30, 2003, there has occurred no event which has a Material Adverse Effect.

(k) Payment of Taxes. All tax returns and reports to be filed by Borrower or any of its Subsidiaries have been timely filed, and all

taxes, assessments, fees and other governmental charges shown on such returns have been paid when due and payable, except such taxes, if any, as are reserved against in accordance with GAAP, such taxes as are being contested in good faith by appropriate proceedings or such taxes, the failure to make payment of which when due and payable will not have, in the aggregate, a Material Adverse Effect. Borrower has no knowledge of any proposed tax assessment against Borrower or any of its Subsidiaries that will have a Material Adverse Effect, which is not being actively contested in good faith by such Person.

(l) Material Adverse Agreements. Neither Borrower nor any of its Subsidiaries is a party to or subject to any Contractual Obligation or other restriction contained in its partnership agreement, certificate of partnership, by-laws, or similar governing documents which has a Material Adverse Effect.

(m) Performance. Neither Borrower nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Contractual Obligation applicable to it, and no condition exists which, with the giving of notice or the lapse of time or both, would constitute a default under such Contractual Obligation in each case, except where the consequences, direct or indirect, of such default or defaults, if any, will not have a Material Adverse Effect.

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(n) Federal Reserve Regulations. No part of the proceeds of the Loan hereunder will be used to purchase or carry any "margin security" as defined in Regulation U or for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might constitute this transaction a "purpose credit" within the meaning of said Regulation U. Borrower is not engaged primarily in the business of extending credit for the purpose of purchasing or carrying any "margin stock" as defined in Regulation U. Borrower is not engaged primarily in the business of extending credit for the purpose of purchasing or carrying any "margin stock" as defined in Regulation U. No part of the proceeds of the Loans will be used for any purpose that violates, or which is inconsistent with, the provisions of Regulation X or any other regulation of the Federal Reserve Board.

(o) Disclosure. Borrower has not intentionally or knowingly withheld any material fact from Agent in regard to any matter raised in the Loan Documents. Notwithstanding the foregoing, with respect to any projections of Borrower's future performance such representations and warranties are made in good faith and to the best judgment of Borrower at the time such projections were made.

(p) Requirements of Law. To Borrower's knowledge, Borrower and each of its Subsidiaries are in compliance with all Requirements of Law (including without limitation the Securities Act and the Securities Exchange Act, and the applicable rules and regulations thereunder, state securities law and "Blue Sky" laws) applicable to them and their respective businesses, in each case, where the failure to so comply will have a Material Adverse Effect.

(q) Patents, Trademarks, Permits, Etc. Borrower and each of its Subsidiaries owns, is licensed or otherwise has the lawful right to use, or has all permits and other governmental approvals, patents, trademarks, trade names, copyrights, technology, know-how and processes used in or necessary for the conduct of Borrower's or such Subsidiary's business as currently conducted, the absence of which would have a Material Adverse Effect. To Borrower's knowledge, the use of such permits and other governmental approvals, patents, trademarks, trade names, copyrights, technology, know-how and processes by Borrower or such Subsidiary does not infringe on the rights of any Person, subject to such claims and infringements as do not, in the aggregate, have a Material Adverse Effect.

(r) Environmental Matters. To the knowledge of Borrower, except as would not have a Material Adverse Effect and except as set forth on Schedule 5.01(r), (i) the Property and operations of Borrower and each of its Subsidiaries comply in all material respects with all applicable Environmental Laws; (ii) none of the Property or operations of Borrower or any of its Subsidiaries are subject to any Remedial Action or other Liabilities and Costs arising from the Release or threatened Release of a Contaminant into the environment or from the violation of any Environmental Laws, which Remedial Action or other Liabilities and Costs would have a Material Adverse Effect; (iii) neither Borrower nor any of its Subsidiaries has filed any notice under applicable Environmental Laws reporting a Release of a Contaminant into the environment in violation of any Environmental Laws, except as the same may have been heretofore remedied; (iv) there is not now, nor to Borrower's knowledge has there ever been, on or in the Property of Borrower or any of its Subsidiaries (except in compliance in all material respects with all applicable Environmental Laws): (A) any underground storage tanks, (B) any asbestos-containing material, (C) any polychlorinated biphenyls (PCB's) used in hydraulic oils,

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electrical transformers or other equipment, (D) any petroleum hydrocarbons or (E) any chlorinated or halogenated solvents; and (v) neither Borrower nor any of its Subsidiaries has received any notice or claim to the effect that it is or may be liable to any Person as a result of the Release or threatened Release of a Contaminant into the environment.

(s) ERISA. None of the REIT, Borrower or any Agreement Party is an "employee pension benefit plan" as defined in Section 3(2) of ERISA, an "employee welfare benefit plan" as defined in Section 3(1) of ERISA, a "multiemployer plan" as defined in Sections 4001(a)(3) or 3(37) of ERISA or a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code. Except for a prohibited transaction arising solely because of a Lender's breach of the covenant set forth in Section 11.23, none of the Obligations, any of the Loan Documents or the exercise of any of the Agent's or Lenders' rights in connection therewith constitutes a prohibited transaction under ERISA or the Internal Revenue Code (which is not exempt from the restrictions of Section 406 of ERISA and the taxes and penalties imposed by Section 4975 of the Internal Revenue Code and Section 502(i) of ERISA) or otherwise results in a Lender, the Agent or the Lenders being deemed in violation of Sections 404 or 406 of ERISA or Section 4975 of the Internal Revenue Code or will by itself result in a Lender, Agent or the Lenders being a fiduciary or party in interest under ERISA or a "disqualified person" as defined in Section 4975(e)(2) of the Internal Revenue Code with respect to an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code. No assets of the REIT, Borrower or any Agreement Party constitute "assets" (within the meaning of 29 C.F.R. Section 2510.3-101 or any successor regulation thereto) of an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code.

Each Borrower Plan is in compliance with ERISA and the applicable provisions of the Internal Revenue Code in all respects except where the failure to comply would not have a Material Adverse Effect. There are no claims (other than claims for benefits in the normal course), actions or lawsuits asserted or instituted against, and none of Borrower, the REIT, any of the Subsidiaries or any of their ERISA Affiliates has knowledge of any threatened litigation or claims against the assets of any Borrower Plan or against any fiduciary of such Borrower Plan with respect to the operation of such Borrower Plan which could have a Material Adverse Effect. No liability to the PBGC has been, or is likely to be, incurred by Borrower, the REIT, any of the Subsidiaries or their ERISA Affiliates other than such liabilities which, in the aggregate, would not have a Material Adverse Effect. None of Borrower, the REIT, any of the Subsidiaries or any of their ERISA Affiliates is now contributing to or has ever contributed to or been obligated to contribute to any Multiemployer Plan, no employees or former employees of Borrower, the REIT, any of the Subsidiaries or any of their ERISA Affiliates have been covered by

any Multiemployer Plan in respect of their employment by Borrower or such Subsidiary or such ERISA Affiliate. None of Borrower, the REIT, any of the Subsidiaries or any of their ERISA Affiliates has engaged in a "prohibited transaction," as such term is defined in Section 4975 of the Internal Revenue Code or in a transaction subject to the prohibitions of Section 406 of ERISA, in connection with any Benefit Plan or Welfare Plan which would subject Borrower, the REIT, any of the Subsidiaries or any of their ERISA Affiliates (after giving effect to any exemption) to the tax or penalty on prohibited transactions imposed by Section 4975 of the Internal Revenue Code, Section 502 of ERISA or any other liability under ERISA which tax, penalty or other liability would have a Material Adverse Effect. None of the Benefit Plans subject to Title IV of ERISA has any material Unfunded Pension Liability as to which Borrower,

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the REIT, any of the Subsidiaries or any of their ERISA Affiliates is or may be liable, which liability would have a Material Adverse Effect.

(t) Solvency. Borrower is and will be Solvent after giving effect to the disbursements of the Loans and the payment and accrual of all fees then payable hereunder.

(u) Title to Assets; No Liens. Borrower has good, indefeasible and merchantable title to the Property owned or leased by it, and all such Property is free and clear of all Liens, except Permitted Liens and Liens permitted by Section 8.01(b).

(v) Use of Proceeds. Borrower's use of the proceeds of the Loans are, and will continue to be, legal and proper uses (and to the extent necessary, duly authorized by Borrower's partners) and such uses are consistent with all applicable laws and statutes and Section 7.01(i).

(w) Subsidiaries and Investment Affiliates. Each Subsidiary and Investment Affiliate as of the date hereof is set forth on Schedule 5.01(w). Schedule 5.01(w) sets forth the ownership of each such Subsidiary and Investment Affiliate and the material Property owned by such Person as of the date hereof.

(x) Tax Shelter Representation. Neither Borrower, the REIT nor any Affiliate of either of the foregoing intends to treat the Loans or the transactions contemplated by this Agreement and the other Loan Documents as being a "reportable transaction" (within the meaning of Treasury Regulation Section 1.6011-4). If Borrower, or any other party to the Loans determines to take any action inconsistent with such intention, Borrower will promptly notify Lenders thereof. If Borrower so notifies Lenders, Borrower acknowledges that Lenders may treat the Loans as part of a transaction that is subject to Treasury Regulation Section 301.6112-1, and Lenders will maintain the lists and other records, including the identity of the applicable party to the Loans as required by such Treasury Regulation.

5.02 Representations and Warranties as to the REIT. The REIT hereby represents and warrants to Agent, Swingline Lender, Issuing Lender and Lenders as follows:

(a) Organization; Corporate Powers. The REIT (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of Maryland, (ii) is duly qualified to do business as a foreign corporation and in good standing under the laws of each jurisdiction in which the nature of its business requires it to be so qualified, except for those jurisdictions where failure to so qualify and be in good standing would not have a Material Adverse Effect, and (iii) has all requisite corporate power and authority to own, operate and encumber its property and assets and to conduct its business as presently conducted and as proposed to be conducted in connection with and following the consummation of the transactions contemplated by the Loan Documents.

(b) Authority. The REIT has the requisite corporate power and authority to execute, deliver and perform each of the Loan Documents to which it is or will be a party. The execution, delivery and performance thereof, and the consummation of the transactions contemplated thereby, have been duly approved by the Board of Directors of the REIT, and no other corporate proceedings on the part of the REIT are necessary to consummate such transactions. Each of the Loan Documents to which the REIT is a party has been duly executed

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and delivered by the REIT and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally and general equitable principles.

(c) No Conflict. The execution, delivery and performance by the REIT of the Loan Documents to which it is a party, and each of the transactions contemplated thereby, do not and will not (i) conflict with or violate its Articles or Certificate of Incorporation or by-laws, or other organizational documents, as the case may be, or the organizational documents of Borrower or any Subsidiary, (ii) conflict with, result in a breach of or constitute (with or without notice or lapse of time or both) a default under any Requirement of Law, Contractual Obligation or Court Order of the REIT, Borrower or any Subsidiary, or require termination of any such Contractual Obligation, the consequences of which conflict or breach or default or termination will have a Material Adverse Effect, or result in or require the creation or imposition of any Lien whatsoever upon any of its Property, or (iii) require any approval of the stockholders of the REIT.

(d) Consents and Authorizations. The REIT has obtained all consents and authorizations required pursuant to its Contractual Obligations with any other Person, the failure of which to obtain would have a Material Adverse Effect, and has obtained all consents and authorizations of, and effected all notices to and filings with, any Governmental Authority necessary to allow the REIT to lawfully execute, deliver and perform its obligations under the Loan Documents to which the REIT is a party.

(e) Governmental Regulation. The REIT is not subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, the Investment Company Act of 1940 or any other federal or state statute or regulation such that its ability to incur indebtedness is limited or its ability to consummate the transactions contemplated by the Loan Documents is materially impaired.

(f) Capitalization. To the REIT's knowledge, all of the capital stock of the REIT has been issued in compliance with all applicable Requirements of Law.

(g) Litigation; Adverse Effects.

(i) There is no action, suit, proceeding, governmental investigation or arbitration, at law or in equity, or before or by any Governmental Authority, pending, or to best of the REIT's knowledge, threatened against the REIT, any of its Subsidiaries or any of their respective Properties in which there is a reasonable possibility of an adverse decision that could have a Material Adverse Effect; and

(ii) Neither the REIT nor any of its Subsidiaries is (A) in violation of any applicable Requirement of Law, which violation has a Material Adverse Effect, or (B) subject to or in default with respect to any Court Order which has a Material Adverse Effect.

(h) Payment of Taxes. All tax returns and reports to be filed by the REIT or any of its Subsidiaries have been timely filed, and all taxes, assessments, fees and other governmental charges shown on such returns

have been paid when due and payable, except such taxes, if any, as are reserved against in accordance with GAAP, such taxes as are being contested

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in good faith by appropriate proceedings or such taxes, the failure to make payment of which when due and payable would not have, in the aggregate, a Material Adverse Effect. The REIT has no knowledge of any proposed tax assessment against the REIT or any of its Subsidiaries that would have a Material Adverse Effect, which is not being actively contested in good faith by the REIT or such Subsidiary.

(i) Material Adverse Agreements. The REIT is not a party to or subject to any Contractual Obligation or other restriction contained in its charter, by-laws, or similar governing documents which has a Material Adverse Effect.

(j) Performance. Neither the REIT nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Contractual Obligation applicable to it, and no condition exists which, with the giving of notice or the lapse of time or both, would constitute a default under such Contractual Obligation in each case, except where the consequences, direct or indirect, of such default or defaults, if any, would not have a Material Adverse Effect.

(k) Securities Activities. The REIT is not engaged principally in the business of extending credit for the purpose of purchasing or carrying any "margin stock" (as defined in Regulation U).

(l) Disclosure. The REIT has not intentionally or knowingly withheld any material fact from Agent in regard to any matter raised in the Loan Documents. Notwithstanding the foregoing, with respect to any projections of the REIT's future performance such representations and warranties are made in good faith and to the best judgment of the management of the REIT at the time such projections were made.

(m) Requirements of Law. To the REIT's knowledge, the REIT and each of its Subsidiaries are in compliance with all Requirements of Law (including without limitation the Securities Act and the Securities Exchange Act, and the applicable rules and regulations thereunder, state securities law and "Blue Sky" laws) applicable to them and their respective businesses, in each case, where the failure to so comply would have a Material Adverse Effect. After giving effect to all filings made simultaneously with the Closing Date, the REIT has made all filings with and obtained all consents of the Commission required under the Securities Act and the Securities Exchange Act in connection with the execution, delivery and performance by the REIT of the Loan Documents to which it is a party.

(n) Patents, Trademarks, Permits, Etc. The REIT and each of its Subsidiaries owns, is licensed or otherwise has the lawful right to use, or has all permits and other governmental approvals, patents, trademarks, trade names, copyrights, technology, know-how and processes used in or necessary for the conduct of the REIT's or such Subsidiary's business as currently conducted, the absence of which would have a Material Adverse Effect. To the REIT's knowledge, the use of such permits and other governmental approvals, patents, trademarks, trade names, copyrights, technology, know-how and processes by the REIT or such Subsidiary does not infringe on the rights of any Person, subject to such claims and infringements as do not, in the aggregate, have a Material Adverse Effect.

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(o) Environmental Matters. To the knowledge of the REIT,



except as would not have a Material Adverse Effect and except as set forth on Schedule 5.01(r), (i) the Property and operations of the REIT and each of its Subsidiaries comply in all material respects with all applicable Environmental Laws; (ii) none of the Property or operations of the REIT or any of its Subsidiaries are subject to any Remedial Action or other Liabilities and Costs arising from the Release or threatened Release of a Contaminant into the environment or from the violation of any Environmental Laws, which Remedial Action or other Liabilities and Costs would have a Material Adverse Effect; (iii) neither the REIT nor any of its Subsidiaries has filed any notice under applicable Environmental Laws reporting a Release of a Contaminant into the environment in violation of any Environmental Laws, except as the same may have been heretofore remedied; (iv) there is not now, nor to the REIT's knowledge has there ever been, on or in the Property of the REIT or any of its Subsidiaries (except in compliance in all material respects with all applicable Environmental Laws): (A) any underground storage tanks, (B) any asbestos-containing material, (C) any polychlorinated biphenyls (PCB's) used in hydraulic oils, electrical transformers or other equipment, (D) any petroleum hydrocarbons or (E) any chlorinated or halogenated solvents; and (v) neither the REIT nor any of its Subsidiaries has received any notice or claim to the effect that it is or may be liable to any Person as a result of the Release or threatened Release of a Contaminant into the environment.

(p) Solvency. The REIT is and will be Solvent after giving effect to the disbursement of the Loans and the payment of all fees then payable hereunder.

(q) Status as a REIT. The REIT (i) is a real estate investment trust as defined in Section 856 of the Internal Revenue Code (or any successor provision thereto), (ii) has not revoked its election to be a real estate investment trust, (iii) has not engaged in any "prohibited transactions" as defined in Section 856(b)(6)(iii) of the Internal Revenue Code (or any successor provision thereto), except for the transfer of manufactured home inventory from Borrower to Realty Systems, Inc., a Delaware corporation (provided that such transfer does not adversely affect the REIT's status as a real estate investment trust under the Internal Revenue Code), and (iv) for its current "tax year" (as defined in the Internal Revenue Code) is and for all prior tax years subsequent to its election to be a real estate investment trust has been entitled to a dividends paid deduction which meets the requirements of Section 857 of the Internal Revenue Code.

(r) Ownership. The REIT does not own any Property or have any interest in any Person, other than as set forth on Schedule 5.01(w).

(s) Listing. The common stock of the REIT is and will continue to be listed for trading and traded on either the New York Stock Exchange or American Stock Exchange.

(t) Tax Shelter Representation. Neither Borrower, the REIT nor any Affiliate of either of the foregoing intends to treat the Loans or the transactions contemplated by this Agreement and the other Loan Documents as being a "reportable transaction" (within the meaning of Treasury Regulation Section 1.6011-4). If the REIT, or any other party to the Loans determines to take any action inconsistent with such intention, the REIT will promptly notify Lenders thereof. If the REIT so notifies Lenders, Borrower acknowledges that Lenders may treat the Loans as part of a transaction that is subject to Treasury Regulation Section 301.6112-1, and

Lenders will maintain the lists and other records, including the identity of the applicable party to the Loans as required by such Treasury Regulation.

ARTICLE VI.  
REPORTING COVENANTS

Borrower covenants and agrees that, on and after the date

hereof, until payment in full of all of the Obligations, the expiration of the Commitments and termination of this Agreement:

6.01 Financial Statements and Other Financial and Operating Information. Borrower shall maintain or cause to be maintained a system of accounting established and administered in accordance with sound business practices and consistent with past practice to permit preparation of quarterly and annual financial statements in conformity with GAAP. Borrower shall deliver or cause to be delivered to Agent with copies for each Lender:

(a) Quarterly Financial Statements Certified by CFO. As soon as practicable, and in any event within fifty (50) days after the end of each Fiscal Quarter, except the last Fiscal Quarter of a Fiscal Year, consolidated balance sheets, statements of income and expenses and statements of cash flow (collectively, "Financial Statements") for the REIT, on a consolidated basis, in the form provided to the Commission on the REIT's Form 10-Q and certified by the REIT's chief financial officer.

(b) Annual Financial Statements. Within one hundred and twenty (120) days after the close of each Fiscal Year, annual Financial Statements of the REIT, on a consolidated basis (in the form provided to the Commission on the REIT's Form 10K), audited and certified without qualification by the Accountants.

(c) Officer's Certificate of REIT. (i) Together with each delivery of any Financial Statement pursuant to clauses (a) and (b) above, an Officer's Certificate of the REIT, stating that (A) the executive officer who is the signatory thereto, which officer shall be the chief executive officer or the chief financial officer of the REIT, has reviewed, or caused under his supervision to be reviewed, the terms of this Agreement and the other Loan Documents, and has made, or caused to be made under his supervision, a review in reasonable detail of the transactions and condition of Borrower, the REIT, the Subsidiaries, and the Agreement Parties, during the accounting period covered by such Financial Statements, and that such review has not disclosed the existence during or at the end of such accounting period, and that the signer does not have knowledge of the existence as of the date of the Officer's Certificate, of any condition or event which constitutes an Event of Default or Unmatured Event of Default, or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action has been taken, is being taken and is proposed to be taken with respect thereto and (B) such Financial Statements have been prepared in accordance with the books and records of the REIT, on a consolidated basis, and fairly present the financial condition of the REIT, on a consolidated basis, at the date thereof (and, if applicable, subject to normal year-end adjustments) and the results of operations and cash flows, on a consolidated basis, for the period then ended; and (ii) together with each delivery pursuant to clauses (a) and (b) above, a compliance certificate demonstrating, in reasonable detail (which detail shall include actual

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calculations), compliance during and at the end of such accounting periods with the financial covenants contained in Sections 8.01(a), 8.01(d) and 8.02(a) and Article IX.

(d) Knowledge of Event of Default. Promptly upon Borrower obtaining knowledge (i) of any condition or event which constitutes an Event of Default or Unmatured Event of Default, or (ii) of any condition or event which has a Material Adverse Effect, an Officer's Certificate of the REIT specifying the nature and period of existence of any such condition or event and the nature of such claimed Event of Default, Unmatured Event of Default, event or condition, and what action Borrower, the REIT or the Agreement Party, as the case may be, has taken, is taking and proposes to take with respect thereto.

(e) Litigation, Arbitration or Government Investigation. Promptly upon Borrower obtaining knowledge of (i) the institution of, or threat of, any material action, suit, proceeding, governmental investigation or

arbitration against or affecting Borrower, any Agreement Party, the REIT, any Subsidiary or any of their Property not previously disclosed in writing by Borrower to Agent pursuant to this Section 6.01(f), or (ii) any material development in any action, suit, proceeding, governmental investigation or arbitration already disclosed, in which, in either case, there is a reasonable possibility of an adverse decision that could have a Material Adverse Effect, a notice thereof to Agent and such other information as may be reasonably available to it to enable Agent and its counsel to evaluate such matters.

(f) Failure of the REIT to Qualify as Real Estate Investment Trust. Promptly upon, and in any event within forty- eight (48) hours after Borrower first has knowledge of (i) the REIT failing to continue to qualify as a real estate investment trust as defined in Section 856 of the Internal Revenue Code (or any successor provision thereof), (ii) any act by the REIT causing its election to be taxed as a real estate investment trust to be terminated, (iii) any act causing the REIT to be subject to the taxes imposed by Section 857(b)(6) of the Internal Revenue Code (or any successor provision thereto), (iv) the REIT failing to be entitled to a dividends paid deduction which meets the requirements of Section 857 of the Internal Revenue Code, or (v) any challenge by the IRS to the REIT's status as a real estate investment trust, a notice of any such occurrence or circumstance.

(g) Management Reports. Upon and after the occurrence of an Event of Default, copies of any management reports prepared by the Accountants as soon as available.

(h) Property Changes. Notice of any material acquisition, disposition, merger, or purchase by the REIT, Borrower, any Subsidiary or any Agreement Party no later than ten (10) days after the consummation thereof, specifying the nature of the transaction in reasonable detail.

(i) Other Information. Such other information, reports, contracts, schedules, lists, documents, agreements and instruments in the possession of the REIT, Borrower, any Subsidiary, or any Agreement Party with respect to the business, financial condition, operations, performance, or properties of Borrower, the REIT, any Subsidiary, or any Agreement Party, as Agent may, from time to time, reasonably request, including without limitation, annual information with respect to cash flow projections, budgets, operating statements (current year and immediately preceding year), rent rolls, lease expiration reports, leasing status reports, note payable summaries, bullet note summaries, equity funding requirements, contingent liability

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summaries, line of credit summaries, line of credit collateral summaries, wrap note or note receivable summaries, schedules of outstanding letters of credit, summaries of cash and Cash Equivalents, projections of management and leasing fees and overhead budgets, each in the form customarily prepared by the REIT or Borrower. If Borrower fails to provide Agent with information requested from Borrower within the time periods provided for herein, or if no time periods are provided for, within ten (10) Business Days after Agent requests such information, and provided that Agent gives Borrower reasonable prior notice and an opportunity to participate, Borrower hereby authorizes Agent to communicate with the Accountants and authorizes the Accountants to disclose to Agent any and all financial statements and other information of any kind, including copies of any management letter or the substance of any oral information, that such Accountants may have with respect to the financial condition, operations, properties, performance and prospects of Borrower, the REIT, any Subsidiary, or any Agreement Party. Concurrently therewith, Agent will notify Borrower of any such communication. At Agent's request, Borrower shall deliver a letter addressed to the Accountants instructing them to disclose such information in compliance with this Section 6.01(s).

6.02 Press Releases; SEC Filings and Financial Statements. The REIT and Borrower will deliver to the Agent as soon as practicable after public release all press releases concerning the REIT or Borrower. The REIT and

Borrower will deliver to Agent as soon as practicable after filing with the Commission, all reports and notices, proxy statements, registration statements and prospectuses. All materials sent or made available generally by the REIT to the holders of its publicly-held Securities or to a trustee under any indenture or filed with the Commission, including all periodic reports required to be filed with the Commission, will be delivered to Agent as soon as available.

6.03 Environmental Notices. Except for events or occurrences that will not result in a Material Adverse Effect, Borrower shall notify Agent, in writing, as soon as practicable, and in any event within ten (10) days after Borrower's learning thereof, of any: (a) written notice or claim to the effect that Borrower, any Agreement Party, the REIT, or any Subsidiary is or may be liable to any Person as a result of the Release or threatened Release of any Contaminant into the environment; (b) written notice that Borrower, any Agreement Party, the REIT, or any Subsidiary is subject to investigation by any Governmental Authority evaluating whether any Remedial Action is needed to respond to the Release or threatened Release of any Contaminant into the environment; (c) written notice that any Property of Borrower, any Agreement Party, the REIT, or any Subsidiary is subject to an Environmental Lien; (d) written notice of violation to Borrower, any Agreement Party, the REIT, or any REIT Subsidiary or awareness of a condition which might reasonably result in a notice of violation of any Environmental Laws by Borrower, the REIT, any REIT Subsidiary or any Agreement Party; (e) commencement or written threat of any judicial or administrative proceeding alleging a violation by Borrower, the REIT, any Subsidiary or any Agreement Party of any Environmental Laws; or (f) written notice received directly from a Governmental Authority of any changes to any existing Environmental Laws.

6.04 Qualifying Unencumbered Properties. Borrower may from time to time but no more frequently than quarterly deliver notice to the Agent stating that Borrower intends to designate a Property to become a Qualifying Unencumbered Property. Such notice shall (i) set forth the name of such Property (or, if such Property has no name, such notice shall otherwise identify such Property), and (ii) be accompanied by a statement of income, certified by the chief

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financial officer of the REIT, for each such Property for the then most recently completed Fiscal Quarter (or, if such statement of income is unavailable, a pro forma financial statement setting forth the Net Operating Income with respect to such Property for the then current Fiscal Quarter). If any such Property meets the requirements set forth in the definition of "Qualifying Unencumbered Properties" and the Agent fails to deliver written notice to Borrower stating that the Requisite Lenders have disapproved the designation of such Property as a Qualifying Unencumbered Property (it being understood that such notice shall provide Borrower with information regarding why such designation was disapproved by the Requisite Lenders and that the Requisite Lenders will not unreasonably disapprove such designation) within twenty (20) days after receipt of such information by Agent, such Property shall become a Qualifying Unencumbered Property.

ARTICLE VII.  
AFFIRMATIVE COVENANTS

Borrower covenants and agrees that, on and after the date hereof, until payment in full of all of the Obligations, the expiration of the Commitments and termination of this Agreement:

7.01 With respect to Borrower:

(a) Existence. Borrower shall, and shall cause each of its Subsidiaries to, at all times maintain its and their respective partnership, limited liability company, trust or corporate existence, as applicable, and preserve and keep in full force and effect its and their respective rights and franchises unless the failure to maintain such rights and franchises does not

have a Material Adverse Effect. Borrower shall maintain its status as a limited partnership.

(b) Qualification. Borrower shall, and shall cause each of its Subsidiaries to, qualify and remain qualified to do business in each jurisdiction in which the nature of its and their businesses require them to be so qualified except for those jurisdictions where failure to so qualify does not have a Material Adverse Effect.

(c) Compliance with Laws, Etc. Borrower shall, and shall cause each of its Subsidiaries to, (i) comply with all Requirements of Law and Contractual Obligations, and all restrictive covenants affecting Borrower and its Subsidiaries or their respective properties, performance, assets or operations, and (ii) obtain as needed all Permits necessary for its and their respective operations and maintain such in good standing, except in each of the foregoing cases where the failure to do so will not have a Material Adverse Effect or expose Agent or Lenders to any material liability therefor.

(d) Payment of Taxes and Claims. (a) Borrower shall, and shall cause each of its Subsidiaries to, pay (i) all taxes, assessments and other governmental charges imposed upon it or them or on any of its or their respective properties or assets or in respect of any of its or their respective franchises, business, income or property before any penalty or interest accrues thereon, the failure to make payment of which in such time periods would have a Material Adverse Effect, and (ii) all claims (including, without limitation, claims for labor, services, materials and supplies) which have become due and payable and which by law have or may become a Lien (other than a Permitted Lien) upon any of its or their respective properties or

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assets, prior to the time when any penalty or fine shall be incurred with respect thereto, the failure to make payment of which would have a Material Adverse Effect; provided, however, that no such taxes, assessments, and governmental charges referred to in clause (i) above or claims referred to in clause (ii) above need be paid if being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and if adequate reserves shall have been set aside therefor in accordance with GAAP.

(e) Maintenance of Properties; Insurance. Borrower shall, and shall cause each of its Subsidiaries to, maintain in good repair, working order and condition, excepting ordinary wear and tear, all of its and their respective Property (personal and real) and will make or cause to be made all appropriate repairs, renewals and replacements thereof, in each case where the failure to so maintain, repair, renew or replace would have a Material Adverse Effect. Borrower shall, and shall cause each of its Subsidiaries to, maintain with insurance companies that have a Best Rating of "A- VII" or higher or other insurance companies reasonably acceptable to Agent that have similar financial resources and stability, which companies shall be qualified to do business in the states where such Property is located, the insurance policies and programs reasonably acceptable to Agent insuring all property and assets material to the operations of Borrower and each of its Subsidiaries against loss or damage by fire, theft, burglary, pilferage and loss in transit and business interruption, together with such other hazards as is reasonably consistent with prudent industry practice, and maintain liability insurance consistent with prudent industry practice with financially sound insurance companies qualified to do business in the states where such Property is located. The insurance policies shall provide that they cannot be terminated or materially modified unless Agent receives thirty (30) days prior written notice of said termination or modification. At Agent's reasonable request, Borrower shall furnish evidence of replacement costs, without cost to Agent, such as are regularly and ordinarily made by insurance companies to determine the then replacement cost of the improvements on any Property of Borrower or any of its Subsidiaries. In the event Borrower fails to cause insurance to be carried as aforesaid, Agent shall have the right (but not the obligation), with the consent of Requisite Lenders, to place and maintain insurance required to be maintained hereunder and treat

the amounts expended therefor as additional Obligations, payable on demand; provided however, that Agent shall give Borrower five (5) days' prior notice of Agent's intent to place or maintain such insurance during which time Borrower shall have the opportunity to obtain such insurance. All of the insurance policies required hereunder shall be in form and substance reasonably satisfactory to Agent. Agent hereby agrees that Borrower may use blanket policies to satisfy the requirements of this Section 7.01(e), approves the issuer, form and content of all insurance policies currently carried by Borrower and agrees that such insurance satisfies the requirements of this Section 7.01(e). Furthermore, Agent agrees that it will not be unreasonable in exercising any right hereunder to require Borrower to modify, alter or supplement its insurance policies or coverage or in exercising any right it may have hereunder to approve any changes Borrower may hereafter make with respect to its insurance.

(f) Inspection of Property; Books and Records. Borrower shall permit and shall cause each of the REIT, each Subsidiary, and each Agreement Party to, upon reasonable prior notice by Agent to Borrower, permit any authorized representative(s) designated by Agent to visit and inspect any of its properties including inspection of financial and accounting records and leases, and to make copies and take extracts therefrom, all at such times during normal business hours and as often as Agent may reasonably request. In connection therewith, Borrower shall pay all reasonable expenses of the types described in Section 12.01. Borrower shall keep,

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and shall cause each of, the REIT, each Subsidiary and each Agreement Party to keep proper books of record and account in conformity with GAAP, as modified and as otherwise required by this Agreement and applicable Requirements of Law.

(g) Maintenance of Licenses, Permits, Etc. Borrower shall, and shall cause each of its Subsidiaries to, maintain in full force and effect all licenses, permits, governmental approvals, franchises, patents, trademarks, trade names, copyrights, authorizations or other rights necessary for the operation of their respective businesses, except where the failure to obtain any of the foregoing would not have a Material Adverse Effect; and notify Agent in writing, promptly after learning thereof, of the suspension, cancellation, revocation or discontinuance of or of any pending or threatened action or proceeding seeking to suspend, cancel, revoke or discontinue any such material license, permit, patent, trademark, trade name, copyright, governmental approval, franchise authorization or right, except where the suspension, cancellation, revocation or discontinuance would not have a Material Adverse Effect.

(h) Conduct of Business. Except for Permitted Holdings and other investments permitted under Section 8.01(c), Borrower shall engage only in the business of owning, operating, managing and developing manufactured home communities, whether directly or through its Subsidiaries.

(i) Use of Proceeds. Borrower shall use the proceeds of each Loan only for general partnership purposes in accordance with the provisions of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, no Swingline Loan shall be used more than once for the purpose of refinancing another Swingline Loan, in whole or part.

(j) Further Assurance. Borrower shall take and shall cause its Subsidiaries and each Agreement Party to take all such further actions and execute all such further documents and instruments as Agent may at any time reasonably determine to be necessary or advisable to (i) correct any technical defect or technical error that may be discovered in any Loan Document or in the execution, acknowledgment or recordation thereof, and (ii) cause the execution, delivery and performance of the Loan Documents to be duly authorized.

(k) Newco REIT. Promptly after any transfer or contribution of any of Borrower's general partnership interests to Newco REIT,

as permitted by Section 8.01(e)(vi)(3) or Section 8.02(c)(vi)(3) of this Agreement, Borrower shall (a) cause Newco REIT to enter into a guaranty of the Loan Obligations in substantially the same form as the REIT Guaranty, (b) provide to Agent copies of Newco REIT's organizational documents, certified as true, correct and complete, and good standing certificates, (c) provide Agent with a legal opinion, in form and substance reasonably satisfactory to Agent, with respect to Newco REIT's authorization, execution and delivery of such guaranty, the enforceability of such guaranty and other matters reasonably requested by Agent and (d) provide Agent with such other certificates and documentation relating to Newco REIT as Agent may reasonably request, including, without limitation, incumbency certificates and resolutions authorizing the execution and delivery of the above-referenced guaranty.

7.02 With respect to the REIT:

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(a) Corporate Existence. The REIT shall, and shall cause each of its Subsidiaries to, at all times maintain its and their respective partnership or corporate existence, as applicable, and preserve and keep in full force and effect its and their respective rights and franchises unless the failure to maintain such rights and franchises will not have a Material Adverse Effect.

(b) Qualification, Name. The REIT shall, and shall cause each of its Subsidiaries to, qualify and remain qualified to do business in each jurisdiction in which the nature of its and their businesses requires them to be so qualified except for those jurisdictions where failure to so qualify does not have a Material Adverse Effect. The REIT will transact business solely in its or its Subsidiaries' own name.

(c) Securities Law Compliance. The REIT shall comply in all material respects with all rules and regulations of the Commission and file all reports required by the Commission relating to the REIT's publicly-held Securities.

(d) Continued Status as a REIT; Prohibited Transactions. The REIT (i) will continue to be a real estate investment trust as defined in Section 856 of the Internal Revenue Code (or any successor provision thereto), (ii) will not revoke its election to be a real estate investment trust, (iii) will not engage in any "prohibited transactions" as defined in Section 856(b)(6)(iii) of the Internal Revenue Code (or any successor provision thereto), and (iv) will do all acts necessary to continue to be entitled to a dividend paid deduction meeting the requirements of Section 857 of the Internal Revenue Code.

(e) NYSE or ASE Listed Company. The REIT shall cause its common stock at all times to be listed for trading and be traded on the New York Stock Exchange or American Stock Exchange.

(f) Compliance with Laws, Etc. The REIT shall, and shall cause each of its Subsidiaries to, (i) comply with all Requirements of Law and Contractual Obligations, and all restrictive covenants affecting the REIT and its Subsidiaries or their respective properties, performance, prospects, assets or operations, and (ii) obtain as needed all Permits necessary for its and their respective operations and maintain such in good standing, except in each of the foregoing cases where the failure to do so will not have a Material Adverse Effect.

(g) Payment of Taxes and Claims. Subject to Section 7.02(d), the REIT shall, and shall cause each of its Subsidiaries to, pay (i) all taxes, assessments and other governmental charges imposed upon it or them or on any of its or their respective properties or assets or in respect of any of its or their respective franchises, business, income or property before any penalty or interest accrues thereon, the failure to make payment of which would have a Material Adverse Effect, and (ii) all claims (including, without limitation, claims for labor, services, materials and supplies) which have

become due and payable and which by law have or may become a Lien (other than a Permitted Lien) upon any of its or their respective properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto, the failure to make payment of which would have a Material Adverse Effect; provided, however, that no such taxes, assessments, and governmental charges referred to in clause (i) above or claims referred to in clause (ii) above need be paid if being contested in good faith by

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appropriate proceedings promptly instituted and diligently conducted and if adequate reserves shall have been set aside therefor in accordance with GAAP.

(h) Newco REIT. From and after the date of any transfer or contribution of any of Borrower's general partnership interests to Newco REIT, as permitted by Section 8.01(e) (vi) (3) or Section 8.02(c) (vi) (3) of this Agreement, the REIT shall cause Newco REIT to at all times (i) remain a Subsidiary of the REIT, (ii) remain controlled by the REIT and (iii) be the sole general partner of Borrower.

ARTICLE VIII.  
NEGATIVE COVENANTS

Borrower and the REIT covenant and agree that, on and after the date hereof, until payment in full of all of the Obligations, the expiration of the Commitments and termination of this Agreement:

8.01 With respect to Borrower:

(a) Indebtedness. Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly create, incur, assume or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(i) the Obligations;

(ii) trade debt incurred in the normal course of business;

(iii) intercompany payables and receivables owing between Subsidiaries in the nature of trade debt incurred in the normal course of business; and

(iv) Indebtedness which, after giving effect thereto, may be incurred or may remain outstanding without giving rise to an Event of Default or Unmatured Event of Default under any provision of Articles VIII and IX; provided, however, that (A) the Borrower shall not, and shall not permit any of its Subsidiaries to, guarantee or otherwise become or remain directly or indirectly liable with respect to the Indebtedness of any Investment Affiliate, and (B) Borrower shall not permit any Subsidiary to create, incur, assume or otherwise become or remain directly or indirectly liable with respect to, any Recourse Indebtedness in excess of Ten Million Dollars (\$10,000,000) per Subsidiary at any time or Fifteen Million Dollars (\$15,000,000) in the aggregate for all Subsidiaries at any time.

(b) Liens. Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly create, incur, assume or permit to exist any Lien on or with respect to any of its Property, except:

(i) Permitted Liens; and

(ii) Liens securing Indebtedness permitted to be incurred and remain outstanding pursuant to Section 8.01(a) (iv).

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(c) Investments. Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly make or own any Investment except:

(i) Investments in cash and Cash Equivalents;

(ii) Permitted Holdings;

(iii) Investments in Subsidiaries and Investment Affiliates owned as of the Closing Date;

(iv) Investments permitted pursuant to Section 8.01(e)(v).

(v) Controlled Ownership Interests which do not constitute Non-Manufactured Home Community Property; and

(vi) mortgage loans which do not constitute Non-Manufactured Home Community Property and which are either eliminated in the consolidation of the REIT, Borrower and the Subsidiaries or are accounted for as investments in real estate under GAAP.

(d) Distributions and Dividends. Other than a distribution of recapitalization proceeds in an amount not to exceed Fifteen Dollars (\$15.00) per outstanding share of the REIT's common stock to be made in the first Fiscal Quarter of 2004, none of Borrower, the REIT nor Newco REIT shall declare or make any dividend or other distribution on account of partnership interests in excess of ninety-five percent (95%) of Funds From Operations in any Fiscal Year; provided, however, that if an Event of Default under Section 10.01(a) shall have occurred, none of Borrower, the REIT nor Newco REIT shall declare or make any dividend or other distribution on account of partnership interests in excess of what is required for the REIT to maintain its status as a real estate investment trust as defined in Section 856 of the Internal Revenue Code.

(e) Restrictions on Fundamental Changes. Except as provided in Section 8.01(e)(vi) below:

(i) Borrower shall not, and shall not permit any of its Subsidiaries to, enter into any merger, consolidation, reorganization or recapitalization or liquidate, wind-up or dissolve (or suffer any liquidation or dissolution), or discontinue its business.

(ii) Borrower shall remain a limited partnership with the REIT as its sole general partner.

(iii) Borrower shall not change its Fiscal Year.

(iv) Except for Permitted Holdings and other Investments permitted under Section 8.01(c), Borrower shall not engage in any line of business other than ownership, operation, management and development of manufactured home communities and the provision of services incidental thereto and the brokerage, purchase, and sale of manufactured home units, whether directly or through its Subsidiaries and Investment Affiliates.

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(v) Borrower shall not acquire by purchase or otherwise all or substantially all of the business, property or assets of, or stock or other evidence of beneficial ownership of, any Person, unless after giving effect thereto, Borrower is in pro forma compliance with this Agreement.

(vi) So long as Borrower and the REIT at all times remain in compliance with all of the terms and conditions of this Agreement, including, without limitation, those contained in Articles VI, VII,

VIII and IX hereof, and no Event of Default or Unmatured Event of Default exists at the time of or would arise as a result thereof, the following transfers are permitted notwithstanding anything expressly to the contrary contained in this Agreement: (1) transfers of securities issued by the REIT that are effected on the New York Stock Exchange or American Stock Exchange, (2) direct or indirect transfers of interests in any Subsidiary (the "Transferred Subsidiary") among Borrower, the REIT or any other Subsidiary, so long as the Transferred Subsidiary remains a Subsidiary after such transfer or transfers, (3) the contribution of the REIT's partnership interests in Borrower to Newco REIT, (4) transfers of limited partnership interests in Borrower, provided that the REIT or Newco REIT remains the sole general partner of Borrower, and (5) the merger (or similar transaction) of the REIT or Borrower, so long as the REIT or Borrower, as applicable, is the surviving entity. At least fifteen (15) days prior to any transaction permitted under clause (5) above, Borrower shall provide Agent and the Lenders with written notice of such merger (or similar transaction) accompanied by a compliance certificate demonstrating in reasonable detail (which detail shall include actual calculations) compliance with the financial covenants contained in Sections 8.01(a), 8.01(d) and 8.02(a) and Article IX both before and, on a pro forma basis, after giving effect to such merger (or similar transaction).

(f) ERISA. Neither Borrower nor the REIT shall, and neither shall permit any Subsidiary or any of their ERISA Affiliates to, do any of the following to the extent that such act or failure to act would result in the aggregate, after taking into account any other such acts or failure to act, in a Material Adverse Effect:

(i) Engage, or knowingly permit a Subsidiary or an ERISA Affiliate to engage, in any prohibited transaction described in Section 406 of ERISA or Section 4975 of the Internal Revenue Code which is not exempt under Section 407 or 408 of ERISA or Section 4975(d) of the Internal Revenue Code for which a class exemption is not available or a private exemption has not been previously obtained from the DOL;

(ii) Permit to exist any accumulated funding deficiency (as defined in Section 302 of ERISA and Section 412 of the Internal Revenue Code), whether or not waived;

(iii) Fail, or permit a Subsidiary or an ERISA Affiliate of the REIT, Borrower or any Subsidiary to fail, to pay timely required contributions or annual installments due with respect to any waived funding deficiency to any Plan if such failure could result in the imposition of a Lien or otherwise would have a Material Adverse Effect;

(iv) Terminate, or permit an ERISA Affiliate of the REIT, Borrower or any Subsidiary to terminate, any Benefit Plan which would result in any liability of Borrower

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or a Subsidiary or an ERISA Affiliate of the REIT, Borrower or any Subsidiary under Title IV of ERISA;

(v) Fail, or permit any Subsidiary or ERISA Affiliate to fail to pay any required installment under section (m) of Section 412 of the Internal Revenue Code or any other payment required under Section 412 of the Internal Revenue Code on or before the due date for such installment or other payment, if such failure could result in the imposition of a Lien or otherwise would have a Material Adverse Effect;

(vi) Permit to exist any Termination Event;

(vii) Make, or permit a Subsidiary or an ERISA Affiliate of the REIT, Borrower or any Subsidiary to make, a complete or partial withdrawal (within the meaning of ERISA Section 4201) from any

Multiemployer Plan so as to result in liability to Borrower, a Subsidiary or any ERISA Affiliate of the REIT, Borrower or any Subsidiary which would have a Material Adverse Effect; or

(viii) Permit the total Unfunded Pension Liabilities (using the actuarial assumptions utilized by the PBGC) for all Benefit Plans (other than Benefit Plans which have no Unfunded Pension Liabilities) to have a Material Adverse Effect.

None of the REIT, Borrower nor any Agreement Party shall use any "assets" (within the meaning of ERISA or Section 4975 of the Internal Revenue Code, including but not limited to 29 C.F.R. Section 2510.3-101 or any successor regulation thereto) of an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code to repay or secure the Obligations if the use of such assets may result in a prohibited transaction under ERISA or the Internal Revenue Code (which is not exempt from the restrictions of Section 406 of ERISA and Section 4975 of the Internal Revenue Code and the taxes and penalties imposed by Section 4975 of the Internal Revenue Code and Section 502(i) of ERISA) or in a Lender, Agent or the Lenders being deemed in violation of Section 404 or 406 of ERISA or Section 4975 of the Internal Revenue Code or otherwise by itself results in or will result in a Lender, Agent or the Lenders being a fiduciary or party in interest under ERISA or a "disqualified person" as defined in Section 4975 (e) (2) of the Internal Revenue Code with respect to an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code. Without limitation of any other provision of this Agreement, none of the REIT, Borrower or any Agreement Party shall assign, sell, pledge, encumber, transfer, hypothecate or otherwise dispose of their respective interests or rights (direct or indirect) in any Loan Document, or attempt to do any of the foregoing or suffer any of the foregoing, or permit any party with a direct or indirect interest or right in any Loan Document to do any of the foregoing, nor shall the REIT or Borrower assign, sell, pledge, encumber, transfer, hypothecate or otherwise dispose of any of their respective rights or interests (direct or indirect) in any Agreement Party, Borrower or the REIT, as applicable, or attempt to do any of the foregoing or suffer any of the foregoing, if such action would cause the Obligations, or the exercise of any of the Agent's or Lenders' rights in connection therewith, to constitute a prohibited transaction under ERISA or the Internal Revenue Code (unless Borrower furnishes to Agent a legal opinion reasonably satisfactory to Agent that the transaction is exempt from the prohibited transaction provisions of ERISA and the Internal Revenue Code (for this purpose, Agent and the Lenders agree to supply Borrower all relevant

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non-confidential factual information reasonably necessary to such legal opinion and reasonably requested by Borrower)) or otherwise results in a Lender, Agent or the Lenders being deemed in violation of Sections 404 or 406 of ERISA or Section 4975 of the Internal Revenue Code or otherwise by itself would result in a Lender, Agent or the Lenders being a fiduciary or party in interest under ERISA or a "disqualified person" as defined in Section 4975(e)(2) of the Internal Revenue Code with respect to an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code.

(g) Environmental Liabilities. Borrower shall not, and shall not permit any of its Subsidiaries to, become subject to any Liabilities and Costs which would have a Material Adverse Effect arising out of or related to (i) the Release or threatened Release of any Contaminant into the environment, or any Remedial Action in response thereto, or (ii) any violation of any Environmental Laws. Notwithstanding the foregoing provision, Borrower and its Subsidiaries shall have the right to contest in good faith any claim of violation of an Environmental Law by appropriate legal proceedings and shall be entitled to postpone compliance with the obligation being contested as long as (i) no Event of Default shall have occurred and be continuing, (ii) Borrower shall have given Agent prior written notice of the commencement of such contest,

(iii) noncompliance with such Environmental Law shall not subject Borrower or such Subsidiary to any criminal penalty or subject Agent to pay any civil penalty or to prosecution for a crime, and (iv) no portion of any Property material to Borrower or its condition or prospects shall be in imminent danger of being sold, forfeited or lost, by reason of such contest or the continued existence of the matter being contested.

(h) Amendment of Constituent Documents. Borrower shall not permit any amendment of its limited partnership agreement, certificate of limited partnership or by-laws, if any, which would materially and adversely affect Agent or Lenders or their respective rights and remedies under the Loan Documents.

(i) Disposal of Interests. Borrower will not directly or indirectly convey, sell, transfer, assign, pledge or otherwise encumber or dispose of any material portion of its partnership interests, stock or other ownership interests in any Subsidiary or other Person in which it has an interest unless Borrower has delivered to Agent a Compliance Certificate showing on a pro forma basis (calculated in a manner reasonably acceptable to Agent) that there would be no breach of any of the financial covenants contained in Articles VIII and XI after giving effect to such conveyance, sale, transfer, assignment, pledge, or other encumbrance or disposition.

(j) Margin Regulations. No portion of the proceeds of any credit extended under this Agreement shall be used in any manner which might cause the extension of credit or the application of such proceeds to violate Regulation U or Regulation X or any other regulation of the Federal Reserve Board or to violate the Securities Exchange Act or the Securities Act, in each case as in effect on the date or dates of Borrowings and such use of proceeds.

(k) Transactions with Affiliates. Borrower shall not and shall not permit any of its Subsidiaries to enter into, any transaction or series of related transactions with any Affiliate of Borrower, other than transactions in the ordinary course of business which are on terms and conditions substantially as favorable to Borrower or such Subsidiary as would be obtainable by Borrower or such Subsidiary in an arms-length transaction with a Person other than an Affiliate.

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8.02 With respect to the REIT:

(a) Indebtedness. The REIT shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(i) the Obligations; and

(ii) Indebtedness which, after giving effect thereto, may be incurred or may remain outstanding without giving rise to an Event of Default or Unmatured Event of Default under any provision of Articles VIII and IX; provided, however, that (A) the REIT shall not, and shall not permit any of its Subsidiaries to, guarantee or otherwise become or remain directly or indirectly liable with respect to the Indebtedness of any Investment Affiliate, and (B) the REIT shall not permit any Subsidiary to create, incur, assume or otherwise become or remain directly or indirectly liable with respect to, any Recourse Indebtedness in excess of Ten Million Dollars (\$10,000,000) per Subsidiary at any time or Fifteen Million Dollars (\$15,000,000) in the aggregate for all Subsidiaries at any time.

(b) Liens. The REIT shall not, and shall not permit any of its Subsidiaries to, directly or indirectly create, incur, assume or permit to exist any Lien on or with respect to any of its Property, except:

(i) Permitted Liens; and

(ii) Liens securing Indebtedness permitted to be incurred and remain outstanding pursuant to Section 8.02(a)(ii).

(c) Restriction on Fundamental Changes. Except as provided in Section 8.02(c)(vi) below:

(i) The REIT shall not enter into any merger, consolidation, reorganization or recapitalization or liquidate, wind-up or dissolve (or suffer any liquidation or dissolution) or discontinue its business.

(ii) The REIT shall not change its Fiscal Year.

(iii) The REIT shall not engage in any line of business other than owning partnership interests in Borrower and the interests identified on Schedule 5.01(w) as being owned by the REIT and any other ownership interests in Subsidiaries and Investment Affiliates which are permitted under the terms of Borrower's partnership agreement.

(iv) The REIT shall not have an Investment in any Person other than Borrower and the interests identified on Schedule 5.01(w) as being owned by the REIT and any other ownership interests in Subsidiaries and Investment Affiliates which are permitted under the terms of Borrower's partnership agreement.

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(v) The REIT shall not acquire an interest in any Property other than Securities issued by Borrower and the interests identified on Schedule 5.01(w) and any other ownership interests in Subsidiaries and Investment Affiliates which are permitted under the terms of Borrower's partnership agreement.

(vi) So long as Borrower and the REIT at all times remain in compliance with all of the terms and conditions of this Agreement, including, without limitation, those contained in Articles VI, VII, VIII and IX hereof, and no Event of Default or Unmatured Event of Default exists at the time of or would arise as a result thereof, the following transfers are permitted notwithstanding anything expressly to the contrary contained in this Agreement: (1) transfers of securities issued by the REIT that are effected on the New York Stock Exchange or American Stock Exchange, (2) direct or indirect transfers of interests in any Subsidiary (the "Transferred Subsidiary") among Borrower, the REIT or any other Subsidiary, so long as the Transferred Subsidiary remains a Subsidiary after such transfer or transfers, (3) the contribution of the REIT's partnership interests in Borrower to Newco REIT, (4) transfers of limited partnership interests in Borrower, provided that the REIT or Newco REIT remains the sole general partner of Borrower, and (5) the merger (or similar transaction) of the REIT or Borrower, so long as the REIT or Borrower, as applicable, is the surviving entity. At least fifteen (15) days prior to any transaction permitted under clause (5) above, the REIT shall provide Agent and the Lenders with written notice of such merger (or similar transaction) accompanied by a compliance certificate demonstrating in reasonable detail (which detail shall include actual calculations) compliance with the financial covenants contained in Sections 8.01(a), 8.01(d) and 8.02(a) and Article IX both before and, on a pro forma basis, after giving effect to such merger (or similar transaction).

(d) Environmental Liabilities. The REIT shall not, and shall not permit any of its Subsidiaries to become subject to any Liabilities and Costs which would have a Material Adverse Effect arising out of or related to (i) the Release or threatened Release of any Contaminant into the environment, or any Remedial Action in response thereto, or (ii) any violation of any Environmental Laws. Notwithstanding the foregoing provision, the REIT and its Subsidiaries shall have the right to contest in good faith any claim of

violation of an Environmental Law by appropriate legal proceedings and shall be entitled to postpone compliance with the obligation being contested as long as (i) no Event of Default shall have occurred and be continuing, (ii) the REIT shall have given Agent prior written notice of the commencement of such contest, (iii) noncompliance with such Environmental Law shall not subject the REIT or such Subsidiary to any criminal penalty or subject Agent to pay any civil penalty or to prosecution for a crime, and (iv) no portion of any Property material to Borrower or its condition or prospects shall be in imminent danger of being sold, forfeited or lost, by reason of such contest or the continued existence of the matter being contested.

(e) Amendment of Charter or By-Laws. The REIT shall not permit any amendment of its charter documents or by-laws, which would materially and adversely affect Agent or Lenders or their respective rights and remedies under the Loan Documents.

(f) Disposal of Partnership Interests. Except as permitted under Section 8.02(c)(vi)(3) of this Agreement, the REIT will not directly or indirectly convey, sell, transfer, assign, pledge or otherwise encumber or dispose of any of its partnership interests in Borrower.

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(g) Maximum Ownership Interests. No Person or group of Persons (within the meaning of Section 13 or 14 of the Securities Exchange Act) (other than Samuel Zell) shall beneficially acquire ownership (within the meaning of Rule 13d-3 promulgated by the Commission under such Act), directly or indirectly, of more than fifteen percent (15%) of the Securities which have the right to elect the board of directors of the REIT under ordinary circumstances on a combined basis, after giving effect to the conversion of any Convertible Securities in the REIT and Borrower.

#### ARTICLE IX. FINANCIAL COVENANTS

Borrower covenants and agrees that, on and after the date of this Agreement and until payment in full of all the Obligations, the expiration of all Commitments and the termination of this Agreement:

9.01 Total Liabilities to Gross Asset Value. Borrower shall not permit the ratio of Total Liabilities to the sum of Gross Asset Values for Borrower and each of its Subsidiaries to exceed 0.7:1.

9.02 EBITDA to Fixed Charges Ratio. Borrower shall not permit the ratio of EBITDA for any Fiscal Quarter to Fixed Charges for such Fiscal Quarter to be less than 1.40:1.

9.03 Unencumbered Net Operating Income to Unsecured Interest Expense. Borrower shall not permit the ratio of Unencumbered Net Operating Income for any Fiscal Quarter to Unsecured Interest Expense for such Fiscal Quarter to be less than 1.80:1.

9.04 Unencumbered Pool. Borrower shall not permit the ratio of (a) the Unencumbered Asset Value to (b) outstanding Unsecured Debt to be less than 1.35:1.

9.05 Minimum Net Worth. Borrower will maintain a Net Worth of not less than the Minimum Net Worth.

9.06 Permitted Holdings. Borrower's primary business will be the ownership, operation, management and development of manufactured home communities and any other business activities of Borrower and its Subsidiaries will remain incidental thereto. Notwithstanding the foregoing, Borrower and its Subsidiaries may acquire, or maintain or engage in the following Permitted Holdings if and so long as (i) the aggregate value of such Permitted Holdings, whether held directly or indirectly by Borrower and its Subsidiaries, does not exceed, at any time, twenty percent (20%) of Gross Asset Value for Borrower as a

whole and (ii) the value of each such Permitted Holding, whether held directly or indirectly by Borrower and its Subsidiaries, does not exceed, at any time, the following percentages of Borrower's Gross Asset Value:

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Permitted Holdings -----	Maximum Percentage of Gross Asset Value -----
Non-Manufactured Home Community Property (other than cash or Cash Equivalents)	10%
Land	5%
Securities issued by real estate investment trusts primarily engaged in the development, ownership, operation and management of manufactured home communities	5%
Manufactured Home Community Mortgages other than mortgage indebtedness which is either eliminated in the consolidation of the REIT, Borrower and the Subsidiaries or accounted for as investments in real estate under GAAP	10%
Manufactured Home Community Ownership Interests other than Controlled Ownership Interests	10%
Development Activity	10%
Taxable REIT Subsidiary Interests	5%

The value of the foregoing categories of Permitted Holdings shall be calculated as follows: (i) the value of any Non-Manufactured Home Community Property (other than cash or Cash Equivalents) or any Manufactured Home Community Ownership Interest (other than a Controlled Ownership Interest) shall be calculated based upon its Adjusted Asset Value; (ii) the value of any Land or any Security issued by a real estate investment trust primarily engaged in the development, ownership, operation and management of manufactured home communities shall be equal to the lesser of (A) the acquisition cost thereof or (B) the current market value thereof (such market value to be determined in a manner reasonably acceptable to Agent); (iii) the value of any Taxable REIT Subsidiary Interest shall be the acquisition or investment cost thereof; (iv) the value of any Manufactured Home Community Mortgage (other than mortgage indebtedness which is either eliminated in the consolidation of the REIT, Borrower and the Subsidiaries or accounted for as an investment in real estate under GAAP) shall be equal to the book value thereof; (v) the value of Development Activity by Borrower or any Subsidiary shall be equal to the full budgeted cost thereof; and (vi) the value of any Development Activity by an

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Investment Affiliate shall be equal to the greater of (A) Borrower's pro rata share of the full budgeted cost thereof based upon its percentage of equity ownership, or (B) Borrower's pro rata share of the full budgeted cost thereof based upon Borrower's economic interest in the project (as determined by Borrower in a manner reasonably satisfactory to Agent).

9.07 Calculation. Each of the foregoing ratios and financial requirements shall be calculated as of the last day of each Fiscal Quarter, but shall be satisfied at all times.

ARTICLE X.  
EVENTS OF DEFAULT; RIGHTS AND REMEDIES

10.01 Events of Default. Each of the following occurrences shall constitute an Event of Default under this Agreement:

(a) Failure to Make Payments When Due. (i) The failure to pay in full any amount due on the Termination Date; (ii) the failure to pay in full any principal when due; (iii) the failure to pay in full any interest owing hereunder or under any of the other Loan Documents within ten (10) days after the due date thereof and, unless Agent has previously delivered two (2) or more notices of payment default to Borrower during the term of this Agreement (in which event the following notice shall not be required), Agent shall have given Borrower written notice that Agent has not received such payment on or before the date such payment was required to be made and Borrower shall have failed to make such payment within five (5) days after receipt of such notice; or (iv) the failure to pay in full any other payment required hereunder or under any of the other Loan Documents, whether such payment is required to be made to Agent or to some other Person, within ten (10) days after Agent gives Borrower written notice that such payment is due and unpaid.

(b) Dividends. Borrower or the REIT shall breach the covenant set forth in Section 8.01(d).

(c) Breach of Financial Covenants. Borrower shall fail to satisfy any covenant set forth in Article IX and such failure shall continue for forty (40) days after Borrower's knowledge thereof.

(d) Other Defaults. Borrower, the REIT or any Agreement Party shall fail duly and punctually to perform or observe any agreement, covenant or obligation binding on Borrower, the REIT or any Agreement Party under this Agreement or under any of the other Loan Documents (other than as described in Section 7.01(e) or Sections 10.01(a), (b), (c), (e), (g) or (p)), and such failure shall continue for thirty (30) days after written notice from Agent to Borrower, the REIT or any Agreement Party (or (i) such lesser period of time as is mandated by applicable Requirements of Law or (ii) such longer period of time (but in no case more than ninety (90) days) as is reasonably required to cure such failure if Borrower, the REIT, or such Agreement Party commences such cure within such ninety (90) days and diligently pursues the completion thereof).

(e) Breach of Representation or Warranty. Any representation or warranty made or deemed made by Borrower, the REIT or any Agreement Party to Agent or any Lender herein or in any of the other Loan Documents or in any statement, certificate or financial statements at any time given by Borrower pursuant to any of the Loan Documents shall be false

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or misleading in any material respect on the date as of which made and, with respect to any such representation or warranty not known by Borrower at the time made or deemed made to be false or misleading, the defect causing such representation or warranty to be false or misleading is not removed within thirty (30) days after written notice thereof from Agent to Borrower.

(f) Default as to Other Indebtedness. Borrower, the REIT, any Subsidiary or any Investment Affiliate shall have defaulted under any Other Indebtedness of such party (other than Non-Recourse Indebtedness) and as a result thereof the holders of such Other Indebtedness shall have accelerated such Other Indebtedness (other than Non-Recourse Indebtedness), if the aggregate amount of such accelerated Other Indebtedness (to the extent of any recourse to Borrower, the REIT or any Subsidiary), together with the aggregate amount of any Other Indebtedness (other than Non-Recourse Indebtedness) of Borrower, the REIT, any Subsidiary or any Investment Affiliate which has theretofore been accelerated (to the extent of any recourse to Borrower, the REIT or any Subsidiary) is \$10,000,000 or more.

(g) Involuntary Bankruptcy; Appointment of Receiver, etc.

(i) An involuntary case or other proceeding shall be commenced against the REIT, Borrower, any Subsidiary, or any Agreement Party and the petition shall not be dismissed within sixty (60) days after commencement of the case, or a court having jurisdiction shall



enter a decree or order for relief in respect of the REIT, Borrower, any Subsidiary, or any Agreement Party, as the case may be, in an involuntary case or other proceeding, under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; or any other similar relief shall be granted under any applicable federal, state or foreign law; or

(ii) A decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Borrower, the REIT, any Subsidiary, or any Agreement Party, or over all or a substantial part of the property of the REIT, Borrower, any Subsidiary, or any Agreement Party shall be entered, or an interim receiver, trustee or other custodian of the REIT, Borrower, any Subsidiary, or any Agreement Party, or of all or a substantial part of the property of the REIT, Borrower, any Subsidiary, or any Agreement Party shall be appointed or a warrant of attachment, execution or similar process against any substantial part of the property of the REIT, Borrower, any Subsidiary, or any Agreement Party shall be issued and any such event shall not be stayed, vacated, dismissed, bonded or discharged within sixty (60) days of entry, appointment or issuance.

(h) Voluntary Bankruptcy; Appointment of Receiver, etc. The REIT, Borrower, any Subsidiary, or any Agreement Party shall have an order for relief entered with respect to it or commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking of possession by a receiver, trustee or other custodian for all or a substantial part of its property; the REIT, Borrower, any Subsidiary, or any Agreement Party shall make any assignment for the benefit of creditors or shall be unable or fail, or admit in writing its inability, to pay its debts as such debts become due; or the general partner(s) or Board of Directors (or any committee thereof), as applicable, of the REIT,

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Borrower, any Subsidiary, or any Agreement Party adopts any resolution or otherwise authorizes any action to approve any of the foregoing.

(i) Judgments and Attachments. (i) Any money judgments (other than a money judgment covered by insurance but only if the insurer has admitted liability with respect to such money judgment), writs or warrants of attachment, or similar processes involving an aggregate amount in excess of \$5,000,000 shall be entered or filed against the REIT, Borrower, any Subsidiary, or any Agreement Party or their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of thirty (30) days, or (ii) any judgment or order of any court or administrative agency awarding material damages shall be entered against the REIT, Borrower, any Subsidiary, or any Agreement Party in any action under the Federal securities laws seeking rescission of the purchase or sale of, or for damages arising from the purchase or sale of, any Securities, such judgment or order shall have become final after exhaustion of all available appellate remedies and such judgment or order would have a Material Adverse Effect.

(j) Dissolution. Any order, judgment or decree shall be entered against the REIT, Borrower, or any Agreement Party decreeing its involuntary dissolution or split up and such order shall remain undischarged and unstayed for a period in excess of thirty (30) days; or the REIT, Borrower, or any Agreement Party shall otherwise dissolve or cease to exist.

(k) Loan Documents; Failure of Security or Subordination. Any Loan Document shall cease to be in full force and effect or any Obligation shall be subordinated or shall not have the priority contemplated by this Agreement or the Loan Documents for any reason or any guarantor under any guaranty of all or any portion of the Obligations shall at any time disavow or

deny liability under such guaranty in writing.

(l) ERISA Plan Assets. Any assets of Borrower, the REIT or any Agreement Party shall constitute "assets" (within the meaning of 29 C.F.R. Section 2510.3-101 or any successor regulation thereto) of an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code or Borrower, the REIT or any Agreement Party shall be an "employee benefit plan" as defined in Section 3(3) of ERISA, a "multiemployer plan" as defined in Sections 4001(a)(3) or 3(37) of ERISA, or a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code.

(m) ERISA Prohibited Transaction. The Obligations, any of the Loan Documents or the exercise of any of the Agent's or Lenders' rights in connection therewith shall constitute a prohibited transaction under ERISA and/or the Internal Revenue Code (which is not exempt from the restrictions of Section 406 of ERISA or Section 4975 of the Internal Revenue Code and the taxes and penalties imposed by Section 4975 of the Internal Revenue Code and Section 502(i) of ERISA).

(n) ERISA Liabilities. (i) Any Termination Event occurs which will or is reasonably likely to subject Borrower, the REIT, any Subsidiary, any Agreement Party, any ERISA Affiliate thereof or any of them to a liability which Agent reasonably determines will have a Material Adverse Effect; (ii) the plan administrator of any Benefit Plan applies for approval under Section 412(d) of the Internal Revenue Code for a waiver of the minimum funding standards of Section 412(a) of the Internal Revenue Code and Agent reasonably determines that the business hardship upon which the Section 412(d) waiver request was based

will or would reasonably be anticipated to subject Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them to a liability which Agent reasonably determines will have a Material Adverse Effect; (iii) any Benefit Plan shall incur an "accumulated funding deficiency" (as defined in Section 412 of the Internal Revenue Code or Section 302 of ERISA) for which a waiver shall not have been obtained in accordance with the applicable provisions of the Internal Revenue Code or ERISA which "accumulated funding deficiency" will or would reasonably be anticipated to subject Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them to a liability which the Agent reasonably determines will have a Material Adverse Effect; (iv) Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them shall have engaged in a transaction which is prohibited under Section 4975 of the Internal Revenue Code or Section 406 of ERISA which will or would reasonably be anticipated to result in the imposition of a liability on Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them which the Agent reasonably determines will have a Material Adverse Effect; (v) Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them shall fail to pay when due an amount which it shall have become liable to pay to the PBGC, a Plan or a trust established under Title IV of ERISA which failure will or would reasonably be anticipated to result in the imposition of a liability on Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them which the Agent reasonably determines will have a Material Adverse Effect; (vi) a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that a Benefit Plan must be terminated or have a trustee appointed to administer such Plan which condition will or would reasonably be anticipated to result in the imposition of a liability on Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them which the Agent reasonably determines will have a Material Adverse Effect; (vii) a Lien shall be imposed on any assets of Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them in favor of the PBGC or a Plan which the Agent reasonably determines will have a Material Adverse Effect; (viii) Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them shall suffer a partial or complete withdrawal from a

Multiemployer Plan or shall be in "default" (as defined in Section 4219(c)(5) of ERISA) with respect to payments to a Multiemployer Plan resulting from a complete or partial withdrawal (as described in Section 4203 or 4205 of ERISA) from such Multiemployer Plan which will or would reasonably be anticipated to result in the imposition of a liability on Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them which the Agent reasonably determines will have a Material Adverse Effect; or (ix) a proceeding shall be instituted by a fiduciary of any Multiemployer Plan against Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them to enforce Section 515 of ERISA which will or would reasonably be anticipated to result in the imposition of a liability on Borrower, the REIT, any Subsidiary, any Agreement Party, or any ERISA Affiliate thereof or any of them which the Agent reasonably determines will have a Material Adverse Effect.

(o) Solvency. Borrower, any Agreement Party or the REIT shall cease to be Solvent.

(p) Board of Directors. During any 12-month period, individuals who were directors of the REIT on the first day of such period shall not constitute a majority of the board of directors of the REIT.

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An Event of Default shall be deemed "continuing" until cured or waived in writing in accordance with Section 12.05.

#### 10.02 Rights and Remedies.

(a) Acceleration. Upon the occurrence of any Event of Default with respect to Borrower described in the foregoing Section 10.01(g) or 10.01(h), the Commitments (including the obligations of Swingline Lender and Issuing Lender) shall automatically and immediately terminate and the unpaid principal amount of and any and all accrued interest on the Loans and all of the other Obligations shall automatically become immediately due and payable, with all additional interest from time to time accrued thereon and without presentment, demand or protest or other requirements of any kind (including without limitation valuation and appraisalment, diligence, presentment, notice of intent to demand or accelerate or notice of acceleration), all of which are hereby expressly waived by Borrower, and the obligations of Lenders to make any Loans hereunder shall thereupon terminate; and upon the occurrence and during the continuance of any other Event of Default, Agent shall, at the request of, or may, with the consent of, Requisite Lenders, by written notice to Borrower, (i) declare that the Commitments (including the obligations of Swingline Lender and Issuing Lender) are terminated, whereupon the Commitments and the obligation of Lenders to make any Loans hereunder shall immediately terminate, and/or (ii) declare the unpaid principal amount of and any and all accrued and unpaid interest on the Loans and all of the other Obligations to be, and the same shall thereupon be, immediately due and payable with all additional interest from time to time accrued thereon and without presentment, demand, or protest or other requirements of any kind (including without limitation, valuation and appraisalment, diligence, presentment, notice of intent to demand or accelerate and of acceleration), all of which are hereby expressly waived by Borrower. Upon the occurrence of and during the continuance of an Event of Default, no Agreement Party shall be permitted to make any distributions or dividends without the prior written consent of Agent. Upon the occurrence of an Event of Default or an acceleration of the Obligations, Agent and Lenders may exercise all or any portion of the rights and remedies set forth in the Loan Documents.

(b) Access to Information. Notwithstanding anything to the contrary contained in the Loan Documents, upon the occurrence of and during the continuance of an Event of Default, Agent shall be entitled to request and receive, by or through Borrower or appropriate legal process, any and all information concerning the REIT, Borrower, any Subsidiary of Borrower, any Investment Affiliate, any Agreement Party, or any property of any of them, which is reasonably available to or obtainable by Borrower.

(c) Waiver of Demand. Demand, presentment, protest and notice of nonpayment are hereby waived by Borrower.

(d) Waivers, Amendments and Remedies. No delay or omission of Agent or Lenders to exercise any right under any Loan Document shall impair such right or be construed to be a waiver of any Event of Default or an acquiescence therein, and any single or partial exercise of any such right shall not preclude other or further exercise thereof or the exercise of any other right, and no waiver, amendment or other variation of the terms, conditions or provisions of the Loan Documents whatsoever shall be valid unless in a writing signed by Agent after obtaining written approval thereof or the signature thereon of those Lenders required to

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approve such waiver, amendment or other variation, and then only to the extent in such writing specifically set forth. All remedies contained in the Loan Documents or by law afforded shall be cumulative and all shall be available to Agent and Lenders until the Obligations have been paid in full, the Commitments have expired or terminated and this Agreement has been terminated.

10.03 Rescission. If at any time after acceleration of the maturity of the Loans, Borrower shall pay all arrears of interest and all payments on account of principal of the Loans which shall have become due otherwise than by acceleration (with interest on principal and, to the extent permitted by law, on overdue interest, at the rates specified in this Agreement) and all Events of Default and Unmatured Events of Default (other than nonpayment of principal of and accrued interest on the Loans due and payable solely by virtue of acceleration) shall be remedied or waived pursuant to Section 12.05, then by written notice to Borrower, Requisite Lenders may elect, in the sole discretion of Requisite Lenders to rescind and annul the acceleration and its consequences; but such action shall not affect any subsequent Event of Default or Unmatured Event of Default or impair any right or remedy in connection therewith. The provisions of the preceding sentence are intended merely to bind Lenders to a decision which may be made at the election of Requisite Lenders; they are not intended to benefit Borrower and do not give Borrower the right to require Lenders to rescind or annul any acceleration hereunder, even if the conditions set forth herein are met.

10.04 Suspension of Lending. At any time during which an Unmatured Event of Default exists pursuant to Section 10.01(c) or Section 10.01(d) and is not cured (by improvement in the applicable financial measure by compliance with the applicable financial covenant in such 40-day period or as provided in Section 10.01(d)), Borrower shall have no right to receive any additional Loans.

ARTICLE XI.  
AGENCY PROVISIONS

11.01 Appointment

(a) Each Lender hereby designates and appoints Wells Fargo as Agent of such Lender under this Agreement and the Loan Documents, and each Lender hereby irrevocably authorizes Agent to take such action on its behalf under the provisions of this Agreement and the Loan Documents and to exercise such powers as are set forth herein or therein, together with such other powers as are reasonably incidental thereto. Agent agrees to act as such on the express conditions contained in this Article XI.

(b) The provisions of this Article XI are solely for the benefit of Agent and Lenders, and Borrower shall not have any rights to rely on or enforce any of the provisions hereof. In performing its functions and duties under this Agreement, Agent shall act solely as Agent of Lenders and does not assume and shall not be deemed to have assumed any obligation toward or

relationship of agency or trust with or for Borrower.

11.02 Nature of Duties. Agent shall not have any duties or responsibilities except those expressly set forth in this Agreement or in the Loan Documents. The duties of Agent shall be administrative in nature. Subject to the provisions of Sections 11.05 and 11.07, Agent shall administer the Loans in the same manner as it administers its own loans. Agent shall

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not have by reason of this Agreement a fiduciary relationship in respect of any Lender. Nothing in this Agreement or any of the Loan Documents, expressed or implied, is intended or shall be construed to impose upon Agent any obligation in respect of this Agreement or any of the Loan Documents except as expressly set forth herein or therein. Each Lender shall make its own independent investigation of the financial condition and affairs of the REIT, Borrower, the Subsidiaries, the Investment Affiliates, and each Agreement Party in connection with the making and the continuance of the Loans hereunder and shall make its own assessment of the creditworthiness of the REIT, Borrower, the Subsidiaries, the Investment Affiliates, and each Agreement Party, and, except as specifically provided herein, Agent shall not have any duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the Closing Date or at any time or times thereafter.

#### 11.03 Loan Disbursements

(a) Promptly after receipt of a Notice of Borrowing for a Loan to be made pursuant to Section 2.01 hereof, but in no event later than one (1) Business Day prior to the proposed Funding Date for a Base Rate Loan or two (2) Business Days prior to the proposed Funding Date for a LIBOR Loan, Agent shall notify each Lender of the proposed Borrowing and the Funding Date set forth therein. Each Lender shall make available to Agent (or the funding bank or entity designated by Agent), the amount of such Lender's Pro Rata Share of such Borrowing in immediately available funds not later than the times designated in Section 11.03(b). Unless Agent shall have been notified by any Lender prior to such time for funding in respect of any Borrowing that such Lender does not intend to make available to Agent such Lender's Pro Rata Share of such Borrowing, Agent may assume that such Lender has made such amount available to Agent and Agent, in its sole discretion, may, but shall not be obligated to, make available to Borrower a corresponding amount. If such corresponding amount is not in fact made available to Agent by such Lender on or prior to a Funding Date, such Lender agrees to pay to Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to Borrower until the date such amount is paid or repaid to Agent, at the Federal Funds Rate. If such Lender shall pay to Agent such corresponding amount, such amount so paid shall constitute such Lender's Pro Rata Share of such Borrowing. If such Lender shall not pay to Agent such corresponding amount after reasonable attempts are made by Agent to collect such amounts from such Lender, Borrower agrees to repay to Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to Borrower until the date such amount is repaid to Agent, at the interest rate applicable thereto.

(b) Requests by Agent for funding by Lenders of Loans will be made by telecopy. Each Lender shall make the amount of its Loan available to Agent in Dollars and in immediately available funds, to such bank and account, in El Segundo, California as Agent may designate, not later than 10:00 A.M. (California time) on the Funding Date designated in the Notice of Borrowing with respect to such Loan. Nothing in this Section 11.03(b) shall be deemed to relieve any Lender of its obligation hereunder to make its Pro Rata Share of Loans on any Funding Date, nor shall any Lender be responsible for the failure of any other Lender to perform its obligations to make any Loan hereunder, and the Commitment of any Lender shall not be increased or decreased as a result of the failure by any other Lender to perform its obligation to make a Loan.

## 11.04 Distribution and Apportionment of Payments

(a) Subject to Section 11.04(b), payments actually received by Agent for the account of Lenders shall be paid to them promptly after receipt thereof by Agent, but in any event prior to 3:00 P.M. (California time) on the day of receipt (if received by 11:00 A.M. (California time) on such day), or within one (1) Business Day thereafter (if received after 11:00 A.M. (California time) on the day of receipt), provided that Agent shall pay to such Lenders interest thereon at the Federal Funds Rate from the Business Day on which such funds are required to be paid to Lenders by Agent until such funds are actually paid in immediately available funds to such Lenders. All payments of principal and interest in respect of outstanding Loans (other than Swingline Loans), all payments of the fees described in this Agreement (other than agency and arrangement fees described in Section 2.04(c)), and all payments in respect of any other Obligations shall be allocated among such of Lenders as are entitled thereto, in proportion to their respective Pro Rata Shares or otherwise as provided herein. Agent shall promptly, but in any event within two (2) Business Days (with interest thereon, if required pursuant to this Section 11.04(a)), distribute to each Lender at its primary address set forth on the appropriate counterpart signature page hereof or on the Assignment and Assumption, or at such other address as a Lender may request in writing, such funds as it may be entitled to receive, provided that Agent shall in any event not be bound to inquire into or determine the validity, scope or priority of any interest or entitlement of any Lender and may suspend all payments and seek appropriate relief (including without limitation instructions from Requisite Lenders, or all Lenders, as applicable, or an action in the nature of interpleader) in the event of any doubt or dispute as to any apportionment or distribution contemplated hereby. The order of priority herein is set forth solely to determine the rights and priorities of Lenders as among themselves and may at any time or from time to time be changed by Lenders as they may elect, in writing in accordance with Section 12.05, without necessity of notice to or consent of or approval by Borrower or any other Person.

(b) Notwithstanding any provision hereof to the contrary, until such time as a Defaulting Lender has funded its Pro Rata Share of a Loan (other than a Swingline Loan but including a Mandatory Borrowing) or draw on a Letter of Credit which was previously a Non Pro Rata Loan, or all other Lenders have received payment in full (whether by repayment or prepayment) of the principal and interest due in respect of such Non Pro Rata Loan, all of the Obligations owing to such Defaulting Lender hereunder shall be subordinated in right of payment, as provided in the following sentence, to the prior payment in full of all principal, interest and fees in respect of all Non Pro Rata Loans in which the Defaulting Lender has not funded its Pro Rata Share (such principal, interest and fees being referred to as "Senior Loans"). All amounts paid by Borrower and otherwise due to be applied to the Obligations owing to the Defaulting Lender pursuant to the terms hereof shall be distributed by Agent to the other Lenders in accordance with their respective Pro Rata Shares (recalculated for purposes hereof to exclude the Defaulting Lender's Commitment), until all Senior Loans have been paid in full. This provision governs only the relationship among Agent, each Defaulting Lender, and the other Lenders; nothing hereunder shall limit the obligation of Borrower to repay all Loans in accordance with the terms of this Agreement. The provisions of this section shall apply and be effective regardless of whether an Event of Default occurs and is then continuing, and notwithstanding (i) any other provision of this Agreement to the contrary, (ii) any instruction of Borrower as to its desired application of payments or (iii) the suspension of such Defaulting Lender's right to vote on matters which are subject to the consent or approval of Requisite

Lenders, Supermajority Lenders, or all Lenders. No Unused Facility Fee shall accrue in favor of, or be payable to, such Defaulting Lender from the date of any failure to fund Loans (other than Swingline Loans but including Loans made

pursuant to Mandatory Borrowings) or draws on Letters of Credit or reimburse Agent for any Liabilities and Costs as herein provided until such failure has been cured and, without limitation of other provisions set forth in this Agreement, Agent shall be entitled to (i) collect interest from such Lender for the period from the date on which the payment was due until the date on which the payment is made at the Federal Funds Rate for each day during such period, (ii) withhold or set off, and to apply to the payment of the defaulted amount and any related interest, any amounts to be paid to such Defaulting Lender under this Agreement, and (iii) bring an action or suit against such Defaulting Lender in a court of competent jurisdiction to recover the defaulted amount and any related interest. In addition, the Defaulting Lender shall indemnify, defend and hold Agent and each of the other Lenders harmless from and against any and all Liabilities and Costs plus interest thereon at the default rate set forth in the Loan Documents for funds advanced by Agent or any other Lender on account of the Defaulting Lender which they may sustain or incur by reason of or as a direct consequence of the Defaulting Lender's failure or refusal to abide by its obligations under this Agreement.

11.05 Rights, Exculpation, Etc. Neither Agent, any Affiliate of Agent, nor any of their respective officers, directors, employees, agents, attorneys or consultants, shall be liable to any Lender for any action taken or omitted by them hereunder or under any of the Loan Documents, or in connection herewith or therewith, except that Agent shall be liable for its gross negligence or willful misconduct in the performance of its express obligations hereunder. In the absence of gross negligence or willful misconduct, Agent shall not be liable for any apportionment or distribution of payments made by it in good faith pursuant to Section 11.04. Agent shall not be responsible to any Lender for any recitals, statements, representations or warranties herein or for the execution, effectiveness, genuineness, validity, enforceability, collectibility or sufficiency of this Agreement, or any of the other Loan Documents, or any of the transactions contemplated hereby and thereby; or for the financial condition of the REIT, Borrower, any Subsidiary, any Investment Affiliate, or any Agreement Party. Agent shall not be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement or any of the Loan Documents or the financial condition of the REIT, Borrower, any Subsidiary, any Investment Affiliate, or any Agreement Party, or the existence or possible existence of any Unmatured Event of Default or Event of Default. Agent may at any time request instructions from Lenders with respect to any actions or approvals which, by the terms of this Agreement or of any of the Loan Documents, Agent is permitted or required to take or to grant without instructions from any Lenders, and if such instructions are promptly requested, Agent shall be absolutely entitled to refrain from taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from taking any action or withholding any approval under any of the Loan Documents until it shall have received such instructions from Requisite Lenders or Supermajority Lenders, as the case may be. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of Requisite Lenders, Supermajority Lenders or, where applicable, all Lenders. Agent shall promptly notify each Lender at any time that the Requisite Lenders or Supermajority Lenders, as the case may be, have instructed Agent to act or refrain from acting pursuant hereto.

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11.06 Reliance. Agent shall be entitled to rely upon any written notices, statements, certificates, orders or other documents, telecopies or any telephone message believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person, and with respect to all matters pertaining to this Agreement or any of the Loan Documents and its duties hereunder or thereunder, upon advice of legal counsel (including counsel for Borrower), independent public accountant and other experts selected by it.

11.07 Indemnification. To the extent that Agent or Issuing Lender is not reimbursed and indemnified by Borrower, Lenders will reimburse, within ten (10) days after notice from Agent, and indemnify Agent and Issuing

Lender for and against any and all Liabilities and Costs which may be imposed on, incurred by, or asserted against it (in its capacity as Agent or Issuing Lender) in any way relating to or arising out of this Agreement or any of the other Loan Documents or any action taken or omitted by Agent or Issuing Lender (in its capacity as Agent or Issuing Lender) under this Agreement or any of the other Loan Documents, in proportion to each Lender's Pro Rata Share, provided that no Lender shall be liable for any portion of such Liabilities and Costs resulting from Agent's or Issuing Lender's gross negligence or willful misconduct, bad faith or fraud. The obligations of Lenders under this Section 11.07 shall survive the payment in full of all Obligations and the termination of this Agreement. In the event that after payment and distribution of any amount by Agent to Lenders, any Lender or third party, including Borrower, any creditor of Borrower or a trustee in bankruptcy, recovers from Agent any amount found to have been wrongfully paid to Agent or disbursed by Agent to Lenders, then Lenders, in proportion to their respective Pro Rata Shares, shall reimburse Agent for all such amounts. Notwithstanding the foregoing, Agent shall not be obligated to advance Liabilities and Costs and may require the deposit by each Lender of its Pro Rata Share of any material Liabilities and Costs anticipated by Agent before they are incurred or made payable.

11.08 Agent Individually. With respect to its Pro Rata Share of the Commitments hereunder and the Loans made by it, Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender. The terms "Lenders", "Requisite Lenders", "Supermajority Lenders", or any similar terms may include Agent in its individual capacity as a Lender, one of the Requisite Lenders or one of the Supermajority Lenders, but Requisite Lenders and Supermajority Lenders shall not include Agent solely in its capacity as Agent. Agent and its Affiliates may accept deposits from, lend money to and generally engage in any kind of banking, trust or other business with Borrower or any of its Subsidiaries or Affiliates as if it were not acting as Agent pursuant hereto.

11.09 Successor Agent; Resignation of Agent; Removal of Agent

(a) Agent may resign from the performance of all its functions and duties hereunder at any time by giving at least thirty (30) Business Days prior written notice to Lenders and Borrower. For good cause, by a determination of all the Lenders (excluding for such determination the Agent in its capacity as a Lender), the Agent may be removed at any time by giving at least thirty (30) Business Days prior written notice to Agent and Borrower. Such resignation or removal shall take effect upon the acceptance by a successor Agent of appointment pursuant to clauses (b) and (c) below or as otherwise provided below.

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(b) Upon any such notice of resignation by or removal of Agent, Requisite Lenders shall appoint a successor Agent with the consent of Borrower, which shall not be unreasonably withheld or delayed (and approval from Borrower shall not be required upon the occurrence and during the continuance of an Event of Default). Any successor Agent must be a bank (i) the senior debt obligations of which (or such Bank's parent's senior debt obligations) are rated not less than Baa-1 by Moody's Inc. or a comparable rating by a rating agency acceptable to Requisite Lenders, (ii) which has total assets in excess of Ten Billion Dollars (\$10,000,000,000) and (iii) which is a Lender as of the date of such succession holding a Commitment without participants equal to at least ten percent (10%) of the Facility. Agent hereby agrees to remit to any successor Agent, a pro rata portion of any annual agent's fee received by Agent, in advance, for the one-year period covered by such agent's fee based upon the portion of such year then remaining.

(c) If a successor Agent shall not have been so appointed within said thirty (30) Business Day period, the retiring or removed Agent, with the consent of Borrower, which may not be unreasonably withheld or delayed (and which approval from Borrower shall not be required upon the occurrence and



during the continuance of an Event of Default), shall then appoint a successor Agent who shall meet the requirements described in subsection (b) above and who shall serve as Agent until such time, if any, as Requisite Lenders, with the consent of Borrower, which may not be unreasonably withheld or delayed (and which approval from Borrower shall not be required upon the occurrence and during the continuance of an Event of Default), appoint a successor Agent as provided above.

(d) Any Person succeeding Wells Fargo (or any successor to Wells Fargo) as Agent hereunder shall also serve as Issuing Lender and Swingline Lender; provided, however, that the issuer of any Letter of Credit outstanding at the time of such succession shall retain all of the rights and protections of Issuing Lender hereunder with respect to such Letter of Credit.

#### 11.10 Consents and Approvals

(a) Each Lender authorizes and directs Agent to enter into the Loan Documents other than this Agreement for the benefit of Lenders. Each Lender agrees that any action taken by Agent at the direction or with the consent of Requisite Lenders or the Supermajority Lenders and any action taken by Agent not requiring consent by Requisite Lenders, Supermajority Lenders, or all Lenders in accordance with the provisions of this Agreement or any Loan Document, and the exercise by Agent at the direction or with the consent of Requisite Lenders or the Supermajority Lenders of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all Lenders, except for actions specifically requiring the approval of all Lenders. All communications from Agent to Lenders requesting Lenders' determination, consent, approval or disapproval (i) shall be given in the form of a written notice to each Lender, (ii) shall be accompanied by a description of the matter or item as to which such determination, approval, consent or disapproval is requested, or shall advise each Lender where such matter or item may be inspected, or shall otherwise describe the matter or issue to be resolved, (iii) shall include, if reasonably requested by a Lender and to the extent not previously provided to such Lender, written materials and a summary of all oral information provided to Agent by Borrower in respect of the matter or issue to be resolved, and (iv) shall include Agent's recommended course of action or determination in respect thereof. Each Lender shall reply promptly, but in any event

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within fifteen (15) Business Days after receipt of the request therefor from Agent (the "Lender Reply Period"). Unless a Lender shall give written notice to Agent that it objects to the recommendation or determination of Agent (together with a written explanation of the reasons behind such objection) within the Lender Reply Period, such Lender shall be deemed to have approved of or consented to such recommendation or determination. With respect to decisions requiring the approval of Requisite Lenders, Supermajority Lenders or all Lenders, Agent shall submit its recommendation or determination for approval of or consent to such recommendation or determination to all Lenders and upon receiving the required approval or consent shall follow the course of action or determination recommended to Lenders by Agent or such other course of action recommended by Requisite Lenders or Supermajority Lenders, as the case may be, and each non-responding Lender shall be deemed to have concurred with such recommended course of action. The following amendments, modifications or waivers shall require the consent of the Requisite Lenders:

(i) Waiver of Sections 8.01(h) or 8.02(f);

(ii) Acceleration following an Event of Default pursuant to Section 10.02(a) (except for any Event of Default pursuant to Sections 10.01(g) or 10.01(h)) or rescission of such acceleration pursuant to Section 10.03;

(iii) Approval of the exercise of remedies requiring the consent of the Requisite Lenders under Section 10.02(a);

(iv) Appointment of a successor Agent in accordance with Sections 11.09(b) and (c);

(v) Disapproval of any Property as a Qualifying Unencumbered Property.

(b) Except for amendments, modifications and waivers requiring the consent of all Lenders pursuant to Section 12.05(b) hereof, the consent of the Supermajority Lenders shall be required to amend or modify Sections 9.01, 9.02, 9.03, 9.04, 9.05 or 10.01(a) or to waive any requirement thereof or to amend or modify this Section 11.10(b).

(c) In addition to the required consents or approvals referred to in Section 12.05, Agent may at any time request instructions from Requisite Lenders with respect to any actions or approvals which, by the terms of this Agreement or of any of the Loan Documents, Agent is permitted or required to take or to grant without instructions from any Lenders, and if such instructions are promptly requested, Agent shall be absolutely entitled to refrain from taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from taking any action or withholding any approval under any of the Loan Documents until it shall have received such instructions from Requisite Lenders. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting under this Agreement, any of the other Loan Documents in accordance with the instructions of Requisite Lenders or, where applicable, Supermajority Lenders or all Lenders. Agent shall promptly notify each Lender at any time that the Requisite Lenders or Supermajority Lenders have instructed Agent to act or refrain from acting pursuant hereto.

11.11 [Intentionally Omitted]

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11.12 [Intentionally Omitted]

11.13 Assignments and Participations

(a) Subject to the provisions of Section 11.13(j), after first obtaining the approval of Agent and Borrower, which approval will not be unreasonably withheld (and which approval from Borrower shall not be required upon the occurrence and during the continuance of an Event of Default), each Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement in accordance with the provisions of this Section (including without limitation all or a portion of its Commitment and the Loans owing to it); provided, however, that (i) each such assignment shall be of a constant, and not a varying, percentage of the assigning Lender's rights and obligations under this Agreement and the assignment shall cover the same percentage of such Lender's Commitment and Loans, (ii) unless Agent and Borrower otherwise consent (which consent of Borrower shall not be required upon the occurrence and during the continuance of an Event of Default), the aggregate amount of the Commitment of the assigning Lender being assigned to an Eligible Assignee that is not already a Lender hereunder (provided such Lender was also a Lender on the Closing Date) pursuant to each such assignment shall in no event be less than Five Million Dollars (\$5,000,000) and shall be an integral multiple of One Million Dollars (\$1,000,000), (iii) the parties to each such assignment shall execute and deliver to Agent, for its approval and acceptance, an Assignment and Assumption and (iv) Agent shall receive from the assignor or assignors for its sole account a processing fee of Three Thousand Dollars (\$3,000). Upon such execution, delivery, approval and acceptance, and upon the effective date specified in the applicable Assignment and Assumption, (A) the assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been validly and effectively assigned to it pursuant to such Assignment and Assumption, have the rights and obligations of a Lender hereunder and (B) the Lender-assignor thereunder shall, to the extent that rights and obligations hereunder have been validly and effectively assigned by it pursuant to such Assignment and Assumption, relinquish its rights and be

released from its obligations under this Agreement.

(b) By executing and delivering an Assignment and Assumption, the Lender-assignor thereunder and the assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Assumption, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or any other Loan Document or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document or any other instrument or document furnished pursuant hereto; (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of the REIT, Borrower, any Subsidiary, any Investment Affiliate, or any Agreement Party or the performance or observance by the REIT, Borrower, any Subsidiary, any Investment Affiliate, or any Agreement Party of any of their respective obligations under any Loan Document or any other instrument or document furnished pursuant hereto; (iii) such assignee confirms that it has received a copy of this Agreement, together with copies of the financial statements referred to in Article VI or delivered pursuant to Article VI to the date of such assignment and such other Loan Documents and other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Assumption; (iv) such assignee will, independently and without reliance upon Agent, such

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assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (v) such assignee appoints and authorizes Agent to take such action as Agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto; and (vi) such assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(c) Agent shall maintain at its address referred to on the counterpart signature pages hereof a copy of each Assignment and Assumption delivered to and accepted by it and shall record the names and addresses of each Lender and the Commitment of, and principal amount of the Loans owing to, such Lender from time to time. Borrower, Agent and Lenders may treat each Person whose name is so recorded as a Lender hereunder for all purposes of this Agreement.

(d) Upon its receipt of an Assignment and Assumption executed by an assigning Lender and an assignee, Agent shall, if such Assignment and Assumption has been properly completed and is in substantially the form of Exhibit A, (i) accept such Assignment and Assumption, (ii) record the information contained therein and (iii) give prompt notice thereof to Borrower. Upon request, Borrower will execute and deliver to Agent an appropriate replacement promissory note or replacement promissory notes in favor of each assignee (and assignor, if such assignor is retaining a portion of its Commitment and Loans) reflecting such assignee's (and assignor's) Pro Rata Share(s) of the Facility. Upon execution and delivery of such replacement promissory notes, the original promissory note or notes evidencing all or a portion of the Commitments and Loans being assigned shall be canceled and returned to Borrower.

(e) Each Lender may sell participations to one or more banks, finance companies, insurance or other entities in or to all or a portion of its rights and obligations under this Agreement (including without limitation all or a portion of its Commitment and the Loans owing to it); provided, however, that (i) such Lender's obligations under this Agreement (including without limitation its Commitment to Borrower hereunder) shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) Borrower, Agent and the other Lenders

shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and with regard to any and all payments to be made under this Agreement and (iv) the holder of any such participation shall not be entitled to voting rights under this Agreement except that such Participant may have the contractual right in the applicable participation agreement to prevent (A) increases in the Facility, (B) extensions of the Maturity Date (except pursuant to Article III hereof), (C) decreases in the interest rates described in this Agreement, and (D) a release of the REIT Guaranty.

(f) Borrower will use reasonable efforts to cooperate with Agent and Lenders in connection with the assignment of interests under this Agreement or the sale of participations herein.

(g) Anything in this Agreement to the contrary notwithstanding, and without the need to comply with any of the formal or procedural requirements of this Agreement,

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including Section 11.13, any Lender may at any time and from time to time pledge and assign all or any portion of its rights under all or any of the Loan Documents to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from its obligations thereunder. To facilitate any such pledge or assignment, Agent shall, at the request of such Lender, enter into a letter agreement with the Federal Reserve Bank in, or substantially in, the form of the exhibit to Appendix C to the Federal Reserve Bank of New York Operating Circular No 12.

(h) Anything in this Agreement to the contrary notwithstanding, any Lender may assign all or any portion of its rights and obligations under this Agreement to a Lender Affiliate of such Lender without first obtaining the approval of Agent and Borrower, provided that (i) at the time of such assignment such Lender is not a Defaulting Lender, (ii) such Lender gives Agent and Borrower at least fifteen (15) days prior written notice of any such assignment; (iii) the parties to each such assignment execute and deliver to Agent an Assignment and Assumption, and (iv) Agent receives from assignor for its sole account a processing fee of Three Thousand Dollars (\$3,000).

(i) No Lender shall be permitted to assign, or sell a participation interest in, all or any portion of its rights and obligations under this Agreement to Borrower or any Affiliate of Borrower.

(j) Anything in this Agreement to the contrary notwithstanding, so long as no Event of Default shall have occurred and be continuing, no Lender shall be permitted to enter into an assignment of its rights and obligations hereunder which would result in such Lender holding a Commitment of less than Ten Million Dollars (\$10,000,000). In the event Agent ceases to hold a Commitment of less than ten percent (10%) of the Facility, Agent shall resign from the performance of all of its functions and duties hereunder; provided, however, that no such resignation shall be required during the continuance of an Event of Default.

11.14 Ratable Sharing. Subject to Sections 11.03 and 11.04, Lenders agree among themselves that (i) with respect to all amounts received by them which are applicable to the payment of the Obligations, equitable adjustment will be made so that, in effect, all such amounts will be shared among them ratably in accordance with their Pro Rata Shares, whether received by voluntary payment, by the exercise of the right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any or all of the Obligations, (ii) if any of them shall by voluntary payment or by the exercise of any right of counterclaim, set-off, banker's lien or otherwise, receive payment of a proportion of the aggregate amount of the Obligations held by it which is greater than its Pro Rata Share of the payments on account of the Obligations, the one receiving such excess payment shall purchase, without recourse or warranty, an undivided interest and participation (which it shall be deemed to have done simultaneously upon the receipt of such payment) in such

Obligations owed to the others so that all such recoveries with respect to such Obligations shall be applied ratably in accordance with their Pro Rata Shares; provided, that if all or part of such excess payment received by the purchasing party is thereafter recovered from it, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to that party to the extent necessary to adjust for such recovery, but without interest except to the extent the purchasing party is required to pay interest in connection with such recovery. Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 11.14 may, to the fullest extent permitted by law,

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exercise all its rights of payment (including, subject to Section 12.04, the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of Borrower in the amount of such participation.

11.15 Delivery of Documents. Agent shall as soon as reasonably practicable distribute to each Lender at its primary address set forth on the appropriate counterpart signature page hereof or at such other address as a Lender may request in writing, (i) all documents to which such Lender is a party or of which such Lender is a beneficiary and (ii) all documents of which Agent receives copies from Borrower for distribution to Lenders pursuant to Sections 6.01 and 12.07. In addition, within ten (10) Business Days after receipt of a request in writing from a Lender for written information or documents provided by or prepared by Borrower, the REIT or any Agreement Party, Agent shall deliver such written information or documents to such requesting Lender if Agent has possession of such written information or documents in its capacity as Agent or as a Lender.

11.16 Notice of Events of Default. Except as expressly provided in this Section 11.16, Agent shall not be deemed to have knowledge or notice of the occurrence of any Unmatured Event of Default or Event of Default (other than nonpayment of principal of or interest on the Loans) unless Agent has received notice in writing from a Lender or Borrower referring to this Agreement or the other Loan Documents, describing such event or condition and expressly stating that such notice is a notice of an Unmatured Event of Default or Event of Default. Should Agent receive such notice of the occurrence of an Unmatured Event of Default or Event of Default, or should Agent send Borrower a notice of Unmatured Event of Default or Event of Default, Agent shall promptly give notice thereof to each Lender.

## ARTICLE XII. MISCELLANEOUS

### 12.01 Expenses

(a) Generally. Borrower agrees, within thirty (30) days after receipt of a written notice from the Agent, to pay or reimburse Agent for all of Agent's reasonable costs and expenses incurred by Agent at any time (whether prior to, on or after the date of this Agreement) in connection with: (A) the negotiation, preparation and execution of this Agreement and the other Loan Documents and any amendments or waivers with respect hereto requested by Borrower, including, without limitation, the reasonable fees, expenses and disbursements of Agent's outside counsel incurred in connection therewith; (B) the making of the Loans and (C) the collection or enforcement by Agent of any of the Obligations, including, without limitation, reasonable attorneys' fees and costs incurred in connection therewith.

(b) After Event of Default. Borrower further agrees to pay, or reimburse Agent and Lenders, for all reasonable costs and expenses, including without limitation reasonable attorneys' fees and disbursements incurred by Agent or Lenders after the occurrence of an Event of Default (i) in enforcing any Obligation or exercising or enforcing any other right or remedy available by reason of such Event of Default; (ii) in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or in any insolvency or bankruptcy

proceeding; (iii) in commencing, defending or intervening in any litigation or in filing a petition, complaint, answer, motion or other pleadings

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in any legal proceeding relating to Borrower, the REIT or any Agreement Party and related to or arising out of the transactions contemplated hereby; (iv) in taking any other action in or with respect to any suit or proceeding (whether in bankruptcy or otherwise); (v) in protecting, preserving, collecting, leasing, selling, taking possession of, or liquidating any such collateral; or (vi) attempting to enforce or enforcing any rights under the Loan Documents; provided, however, that the attorneys' fees and disbursements for which Borrower is obligated under this subsection (b) shall be limited to the reasonable non-duplicative fees and disbursements of counsel for Agent and counsel for all Lenders as a group. For purposes of this Section 12.01(b), (i) counsel for Agent shall mean a single outside law firm representing Agent plus any additional law firms providing special local law representation in connection with the enforcement of the Loan Documents, and (ii) counsel for all Lenders as a group shall mean a single outside law firm representing such Lenders as a group.

#### 12.02 Indemnity

(a) Generally, Borrower shall indemnify and defend Agent, Swingline Lender, Issuing Lender and each Lender and their respective affiliates, participants, officers, directors, employees and agents (each an "Indemnatee") against, and shall hold each such Indemnatee harmless from, any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) which such Indemnatee may suffer or incur: (i) in connection with claims made by third parties against such Indemnatee for losses or damages suffered by such third party as a result of (A) such Indemnatee's performance of this Agreement or any of the other Loan Documents, including without limitation such Indemnatee's exercise or failure to exercise any rights, remedies or powers in connection with this Agreement or any of the other Loan Documents or (B) the failure by Borrower, the REIT or any Agreement Party to perform any of their respective obligations under this Agreement or any of the other Loan Documents as and when required hereby or thereby, including without limitation any failure of any representation or warranty of Borrower, the REIT or any Agreement Party to be true and correct; (ii) in connection with any claim or cause of action of any kind by any Person to the effect that such Indemnatee is in any way responsible or liable for any act or omission by Borrower, the REIT or any Agreement Party, whether on account of any theory of derivative liability or otherwise, (iii) in connection with the past, present or future environmental condition of any Property owned by Borrower, the REIT, Subsidiary or any Agreement Party, the presence of asbestos-containing materials at any such Property, the presence of Contaminants in groundwater at any such Property, or the Release or threatened Release of any Contaminant into the environment from any such Property; or (iv) in connection with any claim or cause of action of any kind by any Person which would have the effect of denying such Indemnatee the full benefit or protection of any provision of this Agreement or any of the other Loan Documents.

(b) ERISA. Without limitation of the provisions of subsection (a) above, Borrower shall indemnify and hold each Indemnatee free and harmless from and against all loss, costs (including reasonable attorneys' fees and expenses), expenses, taxes, and damages (including consequential damages) such Indemnatee may suffer or incur by reason of the investigation, defense and settlement of claims and in obtaining any prohibited transaction exemption under ERISA or the Internal Revenue Code necessary in such Indemnatee's reasonable judgment by reason of the inaccuracy of the representations and warranties set forth

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in the first paragraph of Section 5.01(s) or a breach of the provisions set

forth in the last paragraph of Section 8.01(f).

(c) Exceptions; Limitations. Notwithstanding anything to the contrary set forth in this Section 12.02, Borrower shall have no obligation to any Indemnitee hereunder with respect to (i) any intentional tort, fraud or act of gross negligence or bad faith which any Indemnitee is personally determined by the judgment of a court of competent jurisdiction (sustained on appeal, if any) to have committed, (ii) any liability of such Indemnitee to any third party based upon contractual obligations of such Indemnitee owing to such third party which are not expressly set forth in the Loan Documents or (iii) violations of Environmental Laws relating to a Property which are caused by the act or omission of such Indemnitee after such Indemnitee takes possession of such Property and which would not have occurred if such Indemnitee had exercised reasonable care under the circumstances. In addition, the indemnification set forth in this Section 12.02 in favor of any officer, director, partner, employee or agent of Agent, Swingline Lender, Issuing or any Lender shall be solely in their respective capacities as such officer, director, partner, employee or agent. Such indemnification in favor of any affiliate of Agent, Swingline Lender, Issuing Lender or any Lender shall be solely in its capacity as the provider of services to Agent, Swingline Lender, Issuing Lender or such Lender in connection with this Agreement, and such indemnification in favor of any participant of Agent or any Lender shall be solely in its capacity as a participant in the Commitments and the Loans.

(d) Payment; Survival. Borrower shall pay any amount owing under this Section 12.02 within thirty (30) days after written demand therefor by the applicable Indemnitee together with reasonable supporting documentation therefor. The indemnity set forth in this Section 12.02 shall survive the payment of all amounts payable pursuant to, and secured by, this Agreement and the other Loan Documents. Payment by any Indemnitee shall not be a condition precedent to the obligations of Borrower under this Section 12.02. To the extent that any indemnification obligation set forth in this Section 12.02 may be unenforceable because it is violative of any law or public policy, Borrower shall contribute the maximum portion which it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of the applicable indemnified matter.

12.03 Change in Accounting Principles. Except as otherwise provided herein, if any changes in accounting principles from those used in the preparation of the most recent financial statements delivered to Agent pursuant to the terms hereof are hereafter required or permitted by the rules, regulations, pronouncements and opinions of the Financial Accounting Standards Board or the American Institute of Certified Public Accountants (or successors thereto or agencies with similar functions) and are adopted by the REIT, Borrower, any Subsidiary, any Investment Affiliate, or any Agreement Party with the agreement of its independent certified public accountants and such changes result in a change in the method of calculation of any of the financial covenants, standards or terms found herein, the parties hereto agree to enter into negotiations in order to amend such provisions so as to equitably reflect such changes with the desired result that the criteria for evaluating the financial condition of the REIT, on a consolidated basis, shall be the same after such changes as if such changes had not been made; provided, however, that no change in GAAP that would affect the method of calculation of any of the financial covenants, standards or terms shall be given effect in such calculations until such provisions are amended, in a manner satisfactory to Agent and all Lenders, to so reflect such change in accounting principles.

12.04 Setoff. In addition to any Liens granted to Agent and any rights now or hereafter granted under applicable law and not by way of limitation of any such Lien or rights, upon the occurrence and during the continuance of any Event of Default, Agent and each Lender are hereby authorized by Borrower at any time or from time to time, with concurrent notice to Borrower, or to any other Person (any such notice being hereby expressly waived) to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates

of deposit, whether matured or unmatured but not including trust accounts) and any other indebtedness at any time held or owing by Agent or such Lender solely to or for the credit or the account of Borrower against and on account of the Obligations of Borrower to Agent or such Lender including but not limited to all Loans and all claims of any nature or description arising out of or connected with this Agreement or any of the other Loan Documents, irrespective of whether or not (a) Agent or such Lender shall have made any demand hereunder or (b) Agent shall have declared the principal of and interest on the Loans and other amounts due hereunder to be due and payable as permitted by Article XI and although said obligations and liabilities, or any of them, may be contingent or unmatured.

12.05 Amendments and Waivers. No amendment or modification of any provision of this Agreement shall be effective without the written agreement of Requisite Lenders (after notice to all Lenders) as provided in Section 11.10(a) and Borrower provided that the agreement of Requisite Lenders shall not be required for amendments or modifications that are purely of a clerical nature or that correct a manifest error and no termination or waiver of any such provision of this Agreement (including without limitation any waiver of an Event of Default which does not specifically require the consent of all Lenders), or consent to any departure by Borrower therefrom, shall in any event be effective without the written concurrence of Requisite Lenders (after notice to all Lenders) as provided in Section 11.10(a), which Requisite Lenders shall have the right to grant or withhold at their sole discretion, except that the amendments, modifications or waivers specified in Section 11.10(b) shall require the consent of the Supermajority Lenders and the following amendments, modifications or waivers shall require the consent of all Lenders (other than Section 12.05(j) which shall require the consent of all Lenders other than Agent):

(a) Increasing the Commitments or any Lender's Commitments (excluding any increase as a result of an assignment of commitments under Section 11.13);

(b) Changing the principal amount or final maturity of the Loans;

(c) Reducing or increasing the interest rates applicable to the Loans (other than Swingline Loans);

(d) Reducing the rates on which fees payable pursuant hereto are determined;

(e) Forgiving or delaying any amount payable under Article II (other than late fees);

(f) Changing the definition of "Requisite Lenders," "Loan Availability," "Supermajority Lenders," or "Pro Rata Shares";

(g) Changing any provision contained in Section 12.05;

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(h) Releasing any obligor under any Loan Document, unless such release is otherwise required by the terms of this Agreement or any other Loan Document;

(a) Issuing a Letter of Credit for a term extending beyond the Maturity Date;

(i) Removal of Agent for good cause in accordance with Section 11.09(a); and

(j) Modifying or waiving any other provision herein which specifically requires the consent of all Lenders.

Notwithstanding anything to the contrary contained in this Agreement, Borrower



shall have no right to consent to any amendment, modification, termination or waiver of any provision of Article XI hereof; provided, however, that no amendment, modification, termination or waiver of Section 11.09(b), 11.09(c), 11.10(a), or 11.13 (except subsection (i) thereof) which has an adverse effect on Borrower or Borrower's rights hereunder shall be effective without the written concurrence of Borrower. Agent and Lenders further acknowledge and agree that the remaining provisions of Article XI are intended to and shall continue to address only the rights and obligations of Agent and Lenders amongst each other and do not and shall not impose obligations or restrictions upon Borrower or result in any way in the loss of any rights, claims or defenses of Borrower. No amendment, modification, termination or waiver of any provision of Article XI hereof or any other provision referring to any Agent, Swingline Lender or Issuing Lender shall be effective without the written concurrence of the Agent, Swingline Lender or Issuing Lender, as applicable. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower in any case shall entitle Borrower to any other further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section shall be binding on each assignee, transferee or recipient of Agent's powers, functions or duties or any Lender's Commitment under this Agreement or the Loans at the time outstanding.

12.06 Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or be otherwise within the limitations of, another covenant shall not avoid the occurrence of an Event of Default or Unmatured Event of Default if such action is taken or condition exists.

12.07 Notices and Delivery. Unless otherwise specifically provided herein, any consent, notice or other communication herein required or permitted to be given shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a telecopy or if deposited in the United States mail (registered or certified, with postage prepaid and properly addressed) upon receipt or refusal to accept delivery. Notices to Agent, Swingline Lender or Issuing Lender pursuant to Article II shall not be effective until received by Agent, Swingline Lender or Issuing Lender, as applicable. For the purposes hereof, the addresses of the parties hereto (until notice of a change thereof is delivered as provided in this Section 12.07) shall be as set forth below each party's name on the signature pages hereof, or, as to each party, at such other address as may be designated by such party in a written notice

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to all of the other parties. All deliveries to be made to Agent for distribution to the Lenders shall be made to Agent at the addresses specified for notice on the signature page hereto and, in addition, a sufficient number of copies of each such delivery shall be delivered to Agent for delivery to each Lender at the address specified for deliveries on the signature page hereto or such other address as may be designated by Agent or Lenders in a written notice.

12.08 Survival of Warranties, Indemnities and Agreements. All agreements, representations, warranties and indemnities made or given herein or pursuant hereto shall survive the execution and delivery of this Agreement and the other Loan Documents and the making and repayment of the Loans hereunder and such indemnities shall survive termination hereof.

12.09 Failure or Indulgence Not Waiver; Remedies Cumulative. Except as otherwise expressly provided in this Agreement or any other Loan Document, no failure or delay on the part of Agent, Swingline Lender, Issuing Lender or any Lender in the exercise of any power, right or privilege under any of the Loan Documents shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege. All

rights and remedies existing under the Loan Documents are cumulative to and not exclusive of any rights or remedies otherwise available.

12.10 Marshalling; Recourse to Security; Payments Set Aside. Neither any Lender, Swingline Lender, Issuing Lender nor Agent shall be under any obligation to marshal any assets in favor of Borrower or any other party or against or in payment of any or all of the Obligations. Recourse to security shall not be required at any time. To the extent that Borrower makes a payment or payments to Agent, Swingline Lender, Issuing Lender or the Lenders or Agent, Swingline Lender, Issuing Lender or the Lenders enforce their Liens or exercise their rights of set off, and such payment or payments or the proceeds of such enforcement or set off or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or set off had not occurred.

12.11 Severability. In case any provision in or obligation under this Agreement or the other Loan Documents shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

12.12 Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

12.13 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS.

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12.14 Limitation of Liability. To the extent permitted by applicable law, no claim may be made by Borrower, the REIT, any Lender or any other Person against Agent, Swingline Lender, Issuing Lender or any Lender, or the affiliates, directors, officers, employees, attorneys or agents of any of them, for any punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement, or any act, omission or event occurring in connection therewith; and Borrower, the REIT, and each Lender hereby waive, release and agree not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

12.15 Successors and Assigns. This Agreement and the other Loan Documents shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of the parties hereto and the successors and permitted assigns of Agent and Lenders. The terms and provisions of this Agreement shall inure to the benefit of any permitted assignee or transferee of the Loans and the Commitments of Lenders under this Agreement, and in the event of such transfer or assignment, the rights and privileges herein conferred upon Agent and Lenders shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions hereof. Borrower's rights or any interest therein hereunder, and Borrower's duties and obligations hereunder, shall not be assigned (whether directly, indirectly, by operation of law or otherwise) without the consent of all Lenders.

12.16 Usury Limitation. Each Loan Document is expressly limited so that in no contingency or event whatsoever, whether by reason of error of fact or law, payment, prepayment or advancement of the proceeds of the Loans, acceleration of maturity of the unpaid principal balance of the Loans, or otherwise, shall the amount paid or agreed to be paid to Lenders for the use, forbearance, or retention of money, including any fees or charges collected or

made in connection with the Loans which may be treated as interest under applicable law, if any, exceed the maximum legal limit (if any such limit is applicable) under United States federal laws or state laws (to the extent not preempted by federal law, if any), now or hereafter governing the interest payable under such Loan Documents. If, from any circumstances whatsoever, fulfillment of any provision hereof or any of the other Loan Documents at the time performance of such provision shall be due, shall involve transcending the limit of validity (if any) prescribed by law which a court of competent jurisdiction may deem applicable hereto, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any circumstances Lenders shall ever receive as interest an amount which would exceed the maximum legal limit (if any such limit is applicable), such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Loan Documents and not to the payment of interest or, if necessary, to Borrower. Notwithstanding any other provision of this Agreement or any of the other Loan Documents, this provision shall control every other provision of all Loan Documents.

12.17 Confidentiality. Agent, Swingline Lender, Issuing Lender and Lenders shall use reasonable efforts to assure that any information about Borrower, the REIT, Subsidiaries and Investment Affiliates (and their respective Properties) not generally disclosed to the public which is furnished to Agent, Swingline Lender, Issuing Lender or Lenders pursuant to the provisions of this Agreement or any of the other Loan Documents is used only for the purposes of this Agreement and the other Loan Documents and shall not be divulged to any other

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Person other than Agent, Swingline Lender, Issuing Lender and Lenders and their respective affiliates, officers, directors, employees and agents who are actively and directly participating in the evaluation, administration or enforcement of the Obligations; provided, however, that nothing herein shall affect the disclosure of any such information (i) to the extent required by statute, rule, regulation or judicial process, (ii) to counsel for Agent, Swingline Lender, Issuing Lender or Lenders or to their accountants, (iii) to bank examiners and auditors, (iv) to any transferee or participant or prospective transferee or participant hereunder who agrees to be bound by this provision, (v) in connection with the enforcement of the rights of Agent, Swingline Lender, Issuing Lender and Lenders under this Agreement and the other Loan Documents, or (vi) in connection with any litigation to which Agent, Swingline Lender, Issuing Lender or any Lender is a party so long as Agent, Swingline Lender, Issuing Lender or such Lender provides Borrower with prior written notice of the need for such disclosure and exercises reasonable efforts to obtain a protective order with respect to such information from the court or other tribunal before which such litigation is pending.

Notwithstanding anything to the contrary set forth herein or in any other written or oral understanding or agreement to which the parties hereto are parties or by which they are bound, the parties hereto acknowledge and agree that (i) any obligations of confidentiality contained herein and therein do not apply and have not applied from the commencement of discussions between the parties to the tax treatment and tax structure of the transactions contemplated by the Loan Documents (and any related transactions or arrangements), and (ii) each party (and each of its employees, representatives, or other agents) may disclose to any and all persons as required, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by the Loan Documents and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such tax treatment and tax structure, all within the meaning of Treasury Regulations Section 1.6011-4; provided, however, that each party recognizes that the privilege each has to maintain, in its sole discretion, with regard to the confidentiality of a communication relating to the transactions contemplated by the Loan Documents, including a confidential communication with its attorney or a confidential communication with a federally authorized tax practitioner under Section 7525 of the Internal Revenue Code, is not intended to be affected by the foregoing.

12.18 Consent to Jurisdiction and Service of Process; Waiver of Jury Trial; Waiver Of Permissive Counterclaims. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST BORROWER OR THE REIT WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE AND ALL JUDICIAL PROCEEDINGS BROUGHT BY BORROWER OR THE REIT WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION HAVING SITUS WITHIN THE BOUNDARIES OF THE FEDERAL COURT DISTRICT OF THE NORTHERN DISTRICT OF ILLINOIS, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, BORROWER AND THE REIT ACCEPT, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS, AND IRREVOCABLY AGREE TO BE BOUND BY ANY FINAL JUDGMENT RENDERED THEREBY FROM WHICH NO APPEAL HAS BEEN TAKEN OR IS AVAILABLE. BORROWER AND THE REIT HEREBY DESIGNATE AND APPOINT ELLEN KELLEHER, ESQ., MANUFACTURED HOME COMMUNITIES, INC., TWO NORTH RIVERSIDE PLAZA, SUITE 800, CHICAGO, ILLINOIS 60606, TO RECEIVE ON

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THEIR BEHALF SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDINGS IN ANY SUCH COURT, SUCH SERVICE BEING HEREBY ACKNOWLEDGED BY SUCH PERSON TO BE EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT. SUCH APPOINTMENT SHALL BE REVOCABLE ONLY WITH AGENT'S PRIOR WRITTEN APPROVAL. BORROWER AND THE REIT IRREVOCABLY CONSENT TO THE SERVICE OF PROCESS OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO ITS RESPECTIVE NOTICE ADDRESS SPECIFIED ON THE SIGNATURE PAGES HEREOF, SUCH SERVICE TO BECOME EFFECTIVE UPON RECEIPT. BORROWER, THE REIT, AGENT AND LENDERS IRREVOCABLY WAIVE (A) TRIAL BY JURY IN ANY ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, AND (B) ANY OBJECTION (INCLUDING WITHOUT LIMITATION ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS) WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY JURISDICTION SET FORTH ABOVE. NOTHING HEREIN SHALL AFFECT THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR SHALL LIMIT THE RIGHT OF AGENT OR ANY LENDER TO BRING PROCEEDINGS AGAINST BORROWER IN THE COURTS OF ANY OTHER JURISDICTION. BORROWER AND THE REIT AGREE THAT THEY WILL NOT ASSERT ANY PERMISSIVE COUNTERCLAIM IN ANY PROCEEDING BROUGHT BY LENDER WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT.

12.19 Counterparts; Effectiveness; Inconsistencies. This Agreement and any amendments, waivers, consents or supplements may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. This Agreement shall become effective when Borrower, the initial Lenders, Swingline Lender, Issuing Lender and Agent have duly executed and delivered counterpart execution pages of this Agreement to each other (delivery by Borrower and the REIT to Lenders and by any Lender to Borrower, the REIT and any other Lender being deemed to have been made by delivery to Agent). This Agreement and each of the other Loan Documents shall be construed to the extent reasonable to be consistent one with the other, but to the extent that the terms and conditions of this Agreement are actually and directly inconsistent with the terms and conditions of any other Loan Document, this Agreement shall govern.

12.20 Construction. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

12.21 Entire Agreement. This Agreement, taken together with all of the other Loan Documents and all certificates and other documents delivered by Borrower to Agent in connection herewith, embodies the entire agreement and supersede all prior agreements, written and oral, relating to the subject matter hereof.

12.22 Agent's Action for Its Own Protection Only. The

authority herein conferred upon Agent, and any action taken by Agent, to inspect any Property will be exercised

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and taken by Agent for its own protection only and may not be relied upon by Borrower for any purposes whatsoever, and Agent shall not be deemed to have assumed any responsibility to Borrower with respect to any such action herein authorized or taken by Agent. Any review, investigation or inspection conducted by Agent, any consultants retained by Agent or any agent or representative of Agent in order to verify independently Borrower's satisfaction of any conditions precedent to the Loans, Borrower's performance of any of the covenants, agreements and obligations of Borrower under this Agreement, or the validity of any representations and warranties made by Borrower hereunder (regardless of whether or not the party conducting such review, investigation or inspection should have discovered that any of such conditions precedent were not satisfied or that any such covenants, agreements or obligations were not performed or that any such representations or warranties were not true), shall not affect (or constitute a waiver by Agent or Lenders of) (i) any of Borrower's representations and warranties under this Agreement or Agent's or Lenders' reliance thereon or (ii) Agent's or Lenders' reliance upon any certifications of Borrower required under this Agreement or any other facts, information or reports furnished to Agent and Lenders by Borrower hereunder.

12.23 Lenders' ERISA Covenant. Each Lender, by its signature hereto or on the applicable Assignment and Assumption, hereby agrees (a) that on the date any Loan is disbursed hereunder no portion of such Lender's Pro Rata Share of such Loan will constitute "assets" within the meaning of 29 C.F.R. Section 2510.3-101 of an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code, and (b) that following such date such Lender shall not allocate such Lender's Pro Rata Share of any Loan to an account of such Lender if such allocation (i) by itself would cause such Pro Rata Share of such Loan to then constitute "assets" (within the meaning of 29 C.F.R. Section 2510.3-101 or any successor regulation thereto) of an "employee benefit plan" within the meaning of Section 3(3) of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Internal Revenue Code and (ii) by itself would cause such Loan to constitute a prohibited transaction under ERISA or the Internal Revenue Code (which is not exempt from the restrictions of Section 406 of ERISA and Section 4975 of the Internal Revenue Code and the taxes and penalties imposed by Section 4975 of the Internal Revenue Code and Section 502(i) of ERISA) or any Agent or Lender being deemed in violation of Section 404 of ERISA.

12.24 Sole Lead Arranger, Documentation Agent and Syndication Agent. Each of the parties to this Agreement acknowledges and agrees that the obligations of Sole Lead Arranger, Documentation Agent and Syndication Agent hereunder shall be limited to those obligations that are expressly set forth herein, if any, and Sole Lead Arranger, Documentation Agent and Syndication Agent shall not be required to take any action or assume any liability except as may be required in their respective capacities as a Lender hereunder. Each of the parties to this Agreement agrees that, for purposes of the indemnifications set forth herein, the term "Agent" shall be deemed to include Sole Lead Arranger, Documentation Agent and Syndication Agent.

[SIGNATURE PAGES FOLLOW]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

"Borrower"

MHC OPERATING LIMITED  
PARTNERSHIP, an Illinois limited  
partnership

By: MANUFACTURED HOME COMMUNITIES, INC.,  
a Maryland corporation, as General  
Partner

By: \_\_\_\_\_  
Name: Michael B. Berman  
Title: Vice President/Chief Financial  
Officer

Address:  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Telecopy: 312/279-1710

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"REIT"

MANUFACTURED HOME COMMUNITIES, INC.,  
a Maryland corporation

By: \_\_\_\_\_  
Name: Michael B. Berman  
Title: Vice President/Chief Financial  
Officer

Address:  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Telecopy: 312/279-1710

AGREED AND ACKNOWLEDGED  
FOR PURPOSES OF SECTION 1.04:

"REIT GUARANTOR"

MANUFACTURED HOME  
COMMUNITIES, INC., a Maryland corporation

By: \_\_\_\_\_  
Name: Michael B. Berman  
Title: Vice President/Chief Financial Officer

Address:  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Telecopy: 312/279-1710

S-2

WELLS FARGO BANK, N.A,  
as Agent, Sole Lead Arranger, Swingline Lender,  
Issuing Lender and a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
123 North Wacker Drive  
Suite 1900  
Chicago, Illinois 60606  
Attn.: Senior Loan Officer  
Telecopy: 312/782-0969

WITH A COPY TO:  
Wells Fargo & Co.  
Real Estate Group  
420 Montgomery Street, Floor 6  
San Francisco, California 94163  
Attn.: Chief Credit Officer  
Telecopy: 415/391-2971

WITH A COPY TO (FOR  
FINANCIAL STATEMENTS AND REPORTING INFORMATION  
ONLY):

Wells Fargo Bank  
2030 Main Street  
Suite 800  
Irvine, California 92714  
Attn: Jim Furuyama  
Telecopy 949/251-4343

Commitment: \$50,000,000  
45.454545%

S-3

BANK OF AMERICA, N.A.,  
as Syndication Agent and as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
IL1-231-10-35  
231 S. LaSalle Street, 15th Floor  
Chicago, Illinois 60697  
Attn: Cheryl Sneor  
Telecopy: 312/974-4970

Commitment: \$25,000,000  
22.727273%

S-4

LASALLE BANK NATIONAL ASSOCIATION, as  
Documentation Agent and as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
135 South LaSalle Street  
Suite 1225  
Chicago, Illinois 60603  
Attention: Robert Goeckel  
Telecopy: 312/904-6691

Commitment: \$25,000,000  
22.727273%

S-5

SOUTHTRUST, N.A., as a Lender

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
600 West Peachtree Street  
Atlanta, Georgia 30308  
Attention: Jim Miller  
Telecopy: 404/214-5904

Commitment: \$10,000,000  
9.090909%



LOAN AGREEMENT

Dated as of October 17, 2003

Between

MHC SUNRISE HEIGHTS, L.L.C.

as Borrower

and

BANK OF AMERICA, N.A.

as Lender

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LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of October 17, 2003 (as amended, restated, replaced, supplemented or otherwise modified from time to time, this "AGREEMENT"), between BANK OF AMERICA, N.A., having an address at Bank of America Corporate Center, 214 North Tryon Street, Charlotte, North Carolina 28255 (together with its successors and/or assigns, "LENDER") and MHC SUNRISE HEIGHTS, L.L.C., a Delaware limited liability company, having an address at c/o Manufactured Home Communities, Inc., Two North Riverside Plaza, Suite 800, Chicago, Illinois 60606 (together with its successors and/or assigns, "BORROWER").

RECITALS:

Borrower desires to obtain the Loan (defined below) from Lender.

Lender is willing to make the Loan to Borrower, subject to and in accordance with the terms of this Agreement and the other Loan Documents (defined below).

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

ARTICLE 1  
DEFINITIONS; PRINCIPLES OF CONSTRUCTION

SECTION 1.1. DEFINITIONS

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

"ACCEPTABLE ACCOUNTANT" shall mean a "Big Four" accounting firm or other independent certified public accountant acceptable to Lender.

"ACQUIRED PROPERTY" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACQUIRED PROPERTY STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACT" shall have the meaning set forth in Section 6.1(c) hereof.

"ACT OF TERROR" shall have the meaning set forth in Section 9.8 hereof.

"ADDITIONAL REPLACEMENT" shall have the meaning set forth in Section 9.5(g) hereof.

"ADVISORY AGREEMENT" shall have the meaning set forth in Section 13.3 hereof.

"AFFILIATE" shall mean, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person or of an Affiliate of such Person.

"AFFILIATED LOANS" shall mean a loan made by Lender to a parent, subsidiary or such other entity affiliated with Borrower or Borrower Principal.

"AFFILIATED MANAGER" shall have the meaning set forth in Section 7.1 hereof.

"AFFILIATE TRANSFER PORTION OF THE PROPERTY" shall have the meaning set forth in Section 7.7 hereof.

"AFFILIATE TRANSFEREE" shall have the meaning set forth in Section 7.7 hereof.

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

"ALTERATION THRESHOLD" means five percent (5%) of the original principal amount of the Loan.

"ANNEX" shall have the meaning set forth in Section 4.40 hereof.

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

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

"BORROWER ACCOUNT" shall have the meaning set forth on Schedule 3 attached hereto.

"BORROWER PRINCIPAL" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"BORROWER PRINCIPAL AFFILIATE" shall mean an entity Controlled by Borrower Principal and in which Borrower Principal owns directly or indirectly, at least a 51% interest.

"BUSINESS DAY" shall mean a day on which Lender is open for the conduct of substantially all of its banking business at its office in the city in which the Note is payable (excluding Saturdays and Sundays).

"CASH MANAGEMENT ACCOUNT" shall have the meaning set forth in Section 10.1(a) hereof.

"CASH MANAGEMENT PERIOD" shall mean the existence and continuance of an Event of Default.

"CASUALTY" shall have the meaning set forth in Section 8.2.

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"CLOSING DATE" shall mean the date of the funding of the Loan.

"CONSTANT MONTHLY PAYMENT AMOUNT" shall mean the monthly payment of interest and principal due on each Scheduled Payment Date as set forth in Section 2.2(b) hereof.

"CONTROL" shall have the meaning set forth in Section 7.1 hereof.

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

"CONDEMNATION PROCEEDS" shall have the meaning set forth in Section 8.4(b).

"CREDITORS RIGHTS LAWS" shall mean with respect to any Person any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

"DEBT" shall mean the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, this Agreement, the Mortgage or any other Loan Document.

"DEBT SERVICE" shall mean, with respect to any particular period of time, scheduled principal and/or interest payments under the Note.

"DEBT SERVICE COVERAGE RATIO" shall mean, as of any date of determination, for the applicable period of calculation, the ratio, as determined by Lender, of (i) Net Operating Income to (ii) the aggregate amount of Debt Service which would be due for the same period. The Debt Service Coverage Ratio shall be determined by Lender at the end of each calendar quarter throughout the term of the Loan.

"DEFEASED NOTE" shall have the meaning set forth in Section 2.4(c)(i)(D) hereof.

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

"DEFAULT RATE" shall mean, with respect to the Loan, a rate per annum equal to the lesser of (a) the maximum rate permitted by applicable law, or (b) four percent (4%) above the Note Rate.

"DEFEASANCE COLLATERAL" shall have the meaning set forth in Section 2.4(b)(i)(D)(2) hereof.

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"DEFEASANCE SECURITY AGREEMENT" shall have the meaning set forth in Section 2.4(b)(i)(D)(2) hereof.

"DISCLOSURE DOCUMENT" shall have the meaning set forth in Section 13.5 hereof.

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

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

"EMBARGOED PERSON" shall the meaning set forth in Section 4.39.

"ENVIRONMENTAL INDEMNITY" shall mean, in the event such indemnity was executed in connection with the closing of the Loan, an Environmental Indemnity Agreement, dated as of the date hereof, executed by Borrower and Borrower Principal in connection with the Loan for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"ENVIRONMENTAL LAW" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL LIENS" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL PROBLEM" shall have the meaning set forth in Section 12.6 hereof.

"ENVIRONMENTAL REPORT" shall have the meaning set forth in Section 12.5 hereof.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statutes thereto and applicable regulations issued pursuant thereto in temporary or final form.

"EVENT OF DEFAULT" shall have the meaning set forth in Section 11.1 hereof.

"EXCHANGE ACT" shall mean the Securities and Exchange Act of 1934, as amended.

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"EXCHANGE ACT FILING" shall have the meaning set forth in Section 5.11(c) hereof.

"EXCESS CASH RESERVE ACCOUNT" shall have the meaning set forth in Section 9.7 hereof.

"EXCESS CASH RESERVE FUNDS" shall have the meaning set forth in Section 9.7 hereof.

"FITCH" shall mean Fitch, Inc.

"GAAP" shall mean generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

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

"HAZARDOUS MATERIALS" shall have the meaning set forth in Section 12.5 hereof.

"IMPROVEMENTS" shall have the meaning set forth in the granting clause

of the Mortgage.

"INDEMNIFIED PARTIES" shall mean (a) Lender, (b) any prior owner or holder of the Loan or Participations in the Loan, (c) any servicer or prior servicer of the Loan, (d) any Investor or any prior Investor in any Securities, (e) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any Investor or other third party, (f) any receiver or other fiduciary appointed in a foreclosure or other Creditors Rights Laws proceeding, (g) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (h) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties' assets and business), in all cases whether during the term of the Loan or as part of or following a foreclosure of the Mortgage.

"INDEPENDENT DIRECTOR" shall have the meaning set forth in Section 6.4(a).

"INSOLVENCY OPINION" shall mean a bankruptcy non-consolidation opinion, which such opinion shall be provided by outside counsel acceptable to Lender and, if the Loan has been securitized, the Rating Agencies and shall otherwise be in form, scope and substance acceptable to Lender and, if the Loan has been securitized, the Rating Agencies.

"INSURANCE CERTIFICATES" shall have the meaning set forth in Section 8.1 hereof.

"INSURANCE PREMIUMS" shall have the meaning set forth in Section 8.1(b) hereof.

"INSURANCE PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

"INTEREST SHORTFALL" shall have the meaning set forth in Section 2.4(h) hereof.

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

"INVESTOR" shall have the meaning set forth in Section 13.3 hereof.

"I/O MONTHLY PAYMENT AMOUNT" shall have the meaning set forth in Section 2.2(b) hereof.

"ISSUER GROUP" shall have the meaning set forth in Section 13.5(b) hereof.

"ISSUER PERSON" shall have the meaning set forth in Section 13.5(b) hereof.

"LAUNDRY LEASE" shall have the meaning set forth in Section 4.25 hereof.

"LEASE" shall have the meaning set forth in the Mortgage.

"LEGAL REQUIREMENTS" shall mean all statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Property or any part thereof, or the construction, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses, authorizations and regulations relating



thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting the Property or any part thereof, including, without limitation, any which may (a) require repairs, modifications or alterations in or to the Property or any part thereof, or (b) in any way limit the use and enjoyment thereof.

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

"LLC AGREEMENT" shall have the meaning set forth in Section 6.1(c).

"LOAN" shall mean the loan made by Lender to Borrower pursuant to this Agreement.

"LOAN DOCUMENTS" shall mean, collectively, this Agreement, the Note, the Mortgage, the Environmental Indemnity, (if applicable) the Assignment of Management Agreement, the Lockbox Agreement, and any and all other documents, agreements and certificates executed and/or delivered in connection with the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"LOCKBOX ACCOUNT" shall mean an Eligible Account established pursuant to the Lockbox Agreement for deposit of all Rents and other receipts from the Property.

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"LOCKBOX AGREEMENT" shall mean that certain lockbox account, deposit account or restricted account agreement among Borrower, Lender and Lockbox Bank providing for, among other things, control of the Lockbox Account.

"LOCKBOX BANK" shall have the meaning set forth on Schedule 1, attached hereto.

"LOCKOUT PERIOD" shall mean the period commencing on the date hereof and ending on the date which is three (3) months prior to the Maturity Date.

"LOSSES" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to reasonable legal fees and other costs of defense).

"MAJOR LEASE" shall mean as to the Property (i) any Lease (other than a mobile home or recreational vehicle pad lease) which, individually or when aggregated with all other leases at the Property with the same Tenant or its Affiliate, either (A) accounts for five percent (5%) or more of the Property's aggregate Net Operating Income, or (B) demises 5,000 square feet or more of the Property's gross leasable area, (ii) any Lease which provides the Tenant thereunder any option, offer, right of first refusal or other similar entitlement to acquire all or any portion of the Property except to the extent rights of first refusal are provided to (A) Tenants occupying the Property under pad leases or (B) a homeowner's association, each solely as a result of applicable Legal Requirements, (iii) any commercial Lease or (iv) any instrument guaranteeing or providing credit support for any Lease meeting the requirements of (i), (ii) or (iii) above.

"MANAGEMENT AGREEMENT" shall mean the management agreement entered into by and between Borrower and Manager, pursuant to which Manager is to provide

management and other services with respect to the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified in accordance with the terms of this Agreement.

"MANAGER" shall mean (i) MHCOP, (ii) MHC, (iii) any entity under the Control of either MHCOP or MHC or (iv) such other entity selected as the manager of the Property in accordance with the terms of this Agreement.

"MATURITY DATE" shall have the meaning set forth on Schedule 1, attached hereto.

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

"MEMBER" shall have the meaning set forth in Section 6.1(c) hereof.

"MHC" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"MHCOP" shall mean MHC Operating Limited Partnership, an Illinois limited partnership.

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"MHC SUBSIDIARY" shall have the meaning set forth in Section 7.3 hereof.

"MONTHLY PAYMENT AMOUNT" shall have the meaning set forth in Section 2.2(b) hereof.

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

"MORTGAGE" shall mean that certain first priority mortgage/deed of trust/deed to secure debt and security agreement dated the date hereof, executed and delivered by Borrower as security for the Loan and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NET OPERATING INCOME" shall mean, with respect to any period of time, the amount obtained by subtracting Operating Expenses from Operating Income.

"NET PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

"NET PROCEEDS DEFICIENCY" shall have the meaning set forth in Section 8.4(b) (vi) hereof.

"NOTE" shall mean that certain promissory note of even date herewith in the principal amount set forth on Schedule 1, attached hereto, made by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NOTE RATE" shall have the meaning set forth on Schedule 1, attached hereto.

"OFFERING DOCUMENT Date" shall have the meaning set forth in Section 5.11(c) (i) (D) hereof.

"OPERATING EXPENSES" shall mean, with respect to any period of time, the total of all expenses actually paid or payable, computed in accordance with GAAP, of whatever kind relating to the operation, maintenance and management of the Property, including without limitation, utilities, ordinary repairs and

maintenance, Insurance Premiums, license fees, Taxes and Other Charges, advertising expenses, payroll and related taxes, computer processing charges, management fees equal to the greater of 4% of the Operating Income and the management fees actually paid under the Management Agreement, operational equipment or other lease payments, normalized capital expenditures equal to \$50 per pad per annum, but specifically excluding depreciation and amortization, income taxes, Debt Service, any incentive fees due under the Management Agreement, any item of expense that in accordance with GAAP should be capitalized, any item of expense that would otherwise be covered by the provisions hereof but which is paid by any Tenant under such Tenant's Lease or other agreement directly to a third party other than Borrower, and deposits into the Reserve Accounts.

"OPERATING INCOME" shall mean, with respect to any period of time, all income, computed in accordance with GAAP, derived from the ownership and operation of the Property from whatever source, including, but not limited to, Rents (including percentage rents), utility charges, escalations, forfeited security deposits, interest on credit accounts, service fees or charges, license fees, parking fees, rent concessions or credits, and other required pass-throughs

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but excluding sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any Governmental Authority, refunds and uncollectible accounts, sales of furniture, fixtures and equipment, interest income from any source other than the escrow accounts, Reserve Accounts or other accounts required pursuant to the Loan Documents, Insurance Proceeds (other than business interruption or other loss of income insurance), Awards, unforfeited security deposits, utility and other similar deposits, income from Tenants (under Major Leases) not paying rent, income from tenants (under Major Leases) in bankruptcy, non-recurring or extraordinary income, including, without limitation lease termination payments, and any disbursements to Borrower from the Reserve Funds.

"ORIGINAL BORROWER" shall mean Borrower under the Loan as of the Closing Date.

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

"PARTICIPATIONS" shall have the meaning set forth in Section 13.1 hereof.

"PATRIOT ACT" shall have the meaning set forth in Section 4.40 hereof.

"PERMITTED ENCUMBRANCES" shall mean collectively, (a) the Lien and security interests created by the Loan Documents, (b) all Liens, encumbrances and other matters disclosed in the Title Insurance Policy, (c) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, (d) such other title and survey exceptions as Lender has approved or may approve in writing in Lender's reasonable discretion and (e) utility easements and other easements granted by Borrower in accordance with the terms and conditions set forth herein.

"PERMITTED INVESTMENTS" shall mean to the extent available from Lender or Lender's servicer for deposits in the Reserve Accounts and the Lockbox Account, any one or more of the following obligations or securities acquired at a purchase price of not greater than par, including those issued by a servicer of the Loan, the trustee under any securitization or any of their respective Affiliates, payable on demand or having a maturity date not later than the Business Day immediately prior to the date on which the funds used to acquire such investment are required to be used under this Agreement and meeting one of

the appropriate standards set forth below:

(a) obligations of, or obligations fully guaranteed as to payment of principal and interest by, the United States or any agency or instrumentality thereof provided such obligations are backed by the full faith and credit of the United States of America including, without limitation, obligations of: the U.S. Treasury (all direct or fully guaranteed obligations), the Farmers Home Administration (certificates of beneficial ownership), the General Services Administration (participation certificates), the U.S. Maritime Administration (guaranteed Title XI financing), the Small Business Administration (guaranteed participation certificates and guaranteed pool certificates), the U.S. Department of Housing and Urban Development (local authority bonds) and the Washington Metropolitan Area Transit Authority (guaranteed transit bonds); provided, however, that the investments described in this clause must (i) have a

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predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) be rated "AAA" or the equivalent by each of the Rating Agencies, (iii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iv) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (v) such investments must not be subject to liquidation prior to their maturity;

(b) Federal Housing Administration debentures;

(c) obligations of the following United States government sponsored agencies: Federal Home Loan Mortgage Corp. (debt obligations), the Farm Credit System (consolidated systemwide bonds and notes), the Federal Home Loan Banks (consolidated debt obligations), the Federal National Mortgage Association (debt obligations), the Financing Corp. (debt obligations), and the Resolution Funding Corp. (debt obligations); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(d) federal funds, unsecured certificates of deposit, time deposits, bankers' acceptances and repurchase agreements with maturities of not more than 365 days of any bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(e) fully Federal Deposit Insurance Corporation-insured demand and time deposits in, or certificates of deposit of, or bankers' acceptances with maturities of not more than 365 days and issued by, any bank or trust company, savings and loan association or savings bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would

not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed

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spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(f) debt obligations with maturities of not more than 365 days and at all times rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest long-term unsecured rating category; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(g) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) with maturities of not more than 365 days and that at all times is rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest short-term unsecured debt rating; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(h) units of taxable money market funds or mutual funds, with maturities of not more than 365 days and which funds are regulated investment companies, seek to maintain a constant net asset value per share and invest solely in obligations backed by the full faith and credit of the United States, which funds have the highest rating available from each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) for money market funds or mutual funds; and

(i) any other security, obligation or investment which has been approved as a Permitted Investment in writing by (i) Lender and (ii) each Rating Agency, as evidenced by a written confirmation that the designation of such security, obligation or investment as a Permitted Investment will not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities by such Rating Agency;

provided, however, that no obligation or security shall be a Permitted Investment if (A) such obligation or security evidences a right to receive only

interest payments, (B) the right to receive principal and interest payments on such obligation or security are derived from an

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underlying investment that provides a yield to maturity in excess of one hundred twenty percent (120%) of the yield to maturity at par of such underlying investment or (C) such obligation or security has a remaining term to maturity in excess of one (1) year.

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

"PERSONAL PROPERTY" shall have the meaning set forth in the granting clause of the Mortgage.

"PHYSICAL CONDITIONS REPORT" shall mean a report prepared by a company satisfactory to Lender regarding the physical condition of the Property, satisfactory in form and substance to Lender in its sole discretion.

"POLICIES" shall have the meaning set forth in Section 8.1 hereof.

"PROHIBITED TRANSFER" shall have the meaning set forth in Section 7.2 hereof.

"PROPERTY" shall mean the parcel of real property, the Improvements thereon and all Personal Property owned by Borrower and encumbered by the Mortgage, together with all rights pertaining to such property and Improvements, as more particularly described in the granting clause of the Mortgage and referred to therein as the "Property".

"PROVIDED INFORMATION" shall have the meaning set forth in Section 13.4(a) hereof.

"QUALIFIED MANAGER" shall mean Manager or a reputable and experienced professional management organization (a) which manages, together with its affiliates, mobile home communities, exclusive of the Property containing, in the aggregate, at least one thousand five hundred (1,500) mobile home pads and/or recreational vehicle pads or (b) (i) approved by Lender, which approval shall not have been unreasonably withheld and (ii) for which Lender shall have received written confirmation from the Rating Agencies that the employment of such manager will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to be assigned in connection with a Securitization. In the event Manager is an Affiliated Manager, Borrower shall deliver to Lender a revised substantive non-consolidation opinion if one was delivered in connection with the closing of the Loan.

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

"REA" shall mean any construction, operation and reciprocal easement agreement or similar agreement (including any separate agreement or other agreement between Borrower and one or more other parties to an REA with respect to such REA) affecting the Property or portion thereof.

"RELEASE" shall have the meaning set forth in Section 12.5 hereof.

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"REMIC PROHIBITION PERIOD" shall have the meaning set forth in Section 2.4(b)(iv) hereof.

"REMIC TRUST" shall mean a "real estate mortgage investment conduit" (within the meaning of Section 860D, or applicable successor provisions, of the Code) that holds the Note.

"RENT ROLL" shall have the meaning set forth in Section 4.24 hereof.

"RENTS" shall have the meaning set forth in the Mortgage.

"RENT DIRECTION LETTER" shall have the meaning set forth in Section 10.2(a) hereof.

"REPLACEMENT RESERVE ACCOUNT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE FUNDS" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE MONTHLY DEPOSIT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE PERIOD" shall mean the period commencing on the earlier of the following to occur: (i) the date upon which the Debt Service Coverage Ratio for the Property, as reasonably determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio equals or exceeds 1.15 to 1.00 for the immediately preceding twelve (12) month period or (ii) the existence and continuance of an Event of Default.

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

"REQUIRED REPAIRS" shall have the meaning set forth in Section 9.1(a) hereof.

"REQUIRED WORK" shall have the meaning set forth in Section 9.4 hereof.

"RESERVE ACCOUNTS" shall mean the Tax and Insurance Reserve Account, the Replacement Reserve Account, the Excess Cash Reserve Account, the Terrorism Reserve Account, if applicable, or any other escrow account established by the Loan Documents.

"RESERVE FUNDS" shall mean the Tax and Insurance Reserve Funds, the Replacement Reserve Funds, the Excess Cash Reserve Funds, the Terrorism Reserve Funds, if applicable, or any other escrow funds established by the Loan Documents.

"RESTORATION" shall mean, following the occurrence of a Casualty or a Condemnation which is of a type necessitating the repair of the Property, the completion of the repair and restoration of the Property as nearly as possible to the condition the Property was in immediately prior to such Casualty or Condemnation, with such alterations as may be reasonably approved by Lender.

"RESTORATION CONSULTANT" shall have the meaning set forth in Section 8.4(b)(iii) hereof.

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"RESTORATION RETAINAGE" shall have the meaning set forth in Section 8.4(b)(iv) hereof.

"RESTRICTED PARTY" shall have the meaning set forth in Section 7.1 hereof.

"SALE OR PLEDGE" shall have the meaning set forth in Section 7.1 hereof.

"SCHEDULED PAYMENT DATE" shall have the meaning set forth in Section 2.2(b) hereof.

"SECURITIES" shall have the meaning set forth in Section 13.1 hereof.

"SECURITIES ACT" shall mean the Securities Act of 1933, as amended.

"SECURITIES LIABILITIES" shall have the meaning set forth in Section 13.5 hereof.

"SECURITIZATION" shall have the meaning set forth in Section 13.1 hereof.

"SPECIAL MEMBER" shall have the meaning set forth in Section 6.1(c).

"SPE COMPONENT ENTITY" shall have the meaning set forth in Section 6.1(b) hereof.

"STANDARD STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD" shall have the meaning set forth in Schedule 1, attached hereto.

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

"STATE" shall mean the state in which the Property or any part thereof is located.

"SUCCESSOR BORROWER" shall have the meaning set forth in Section 2.4(b) (iii) hereof.

"TAX AND INSURANCE RESERVE FUNDS" shall have the meaning set forth in Section 9.6 hereof.

"TAX AND INSURANCE RESERVE ACCOUNT" shall have the meaning set forth in Section 9.6 hereof.

"TAX AND INSURANCE RESERVE PERIOD" shall mean the earlier of the following to occur (i) the period commencing on the date upon which the Debt Service Coverage Ratio for the Property as determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio for the immediately preceding twelve (12) month period equals or exceeds 1.15 to 1.00, (ii) the period during the existence and continuance of an Event of Default or (iii) the period commencing upon Borrower's failure to deliver to Lender evidence of payment of (A) all Taxes and Other Charges in accordance with Section 5.4 hereof or (B) all Insurance Premiums in accordance with Section 8.1 hereof, which evidence shall be reasonably satisfactory to Lender in all respects, and ending upon delivery of such evidence to Lender.

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

"TENANT" shall mean any Person leasing, subleasing or otherwise occupying any portion of the Property under a Lease or other occupancy agreement with Borrower.



"TERMINATION FEE DEPOSIT" shall have the meaning set forth in Section 9.3(b).

"TERRORISM RESERVE ACCOUNT" shall have the meaning set forth in Section 9.8 hereof.

"TERRORISM RESERVE FUNDS" shall have the meaning set forth in Section 9.8 hereof.

"TITLE INSURANCE POLICY" shall mean that certain ALTA mortgagee title insurance policy issued with respect to the Property and insuring the lien of the Mortgage.

"TRANSFeree" shall have the meaning set forth in Section 7.5 hereof.

"TRIBUNAL" shall mean any state, commonwealth, federal, foreign, territorial or other court or governmental department, commission, board, bureau, district, authority, agency, central bank, or instrumentality, or any arbitration authority.

"UCC" or "UNIFORM COMMERCIAL CODE" shall mean the Uniform Commercial Code as in effect in the State where the applicable Property is located.

#### SECTION 1.2. PRINCIPLES OF CONSTRUCTION.

All references to sections and schedules are to sections and schedules in or to this Agreement unless otherwise specified. All uses of the word "including" shall mean "including, without limitation" unless the context shall indicate otherwise. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined.

### ARTICLE 2 GENERAL TERMS

#### SECTION 2.1. LOAN COMMITMENT; DISBURSEMENT TO BORROWER

(a) Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

(b) Borrower may request and receive only one borrowing in respect of the Loan and any amount borrowed and repaid in respect of the Loan may not be reborrowed.

(c) The Loan shall be evidenced by the Note and secured by the Mortgage and the other Loan Documents.

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(d) Borrower shall use the proceeds of the Loan to (i) pay certain costs in connection with the financing of the Property, (ii) make deposits into the Reserve Funds on the Closing Date in the amounts provided herein, (iii) pay costs and expenses incurred in connection with the closing of the Loan, as approved by Lender, (iv) fund any working capital requirements of the Property, and (v) distribute the balance, if any, to its partners or members, as applicable.

#### SECTION 2.2. LOAN PAYMENTS

(a) The Loan shall bear interest at a fixed rate per annum equal to the Note Rate. Interest shall be computed based on the daily rate produced assuming a three hundred sixty (360) day year, multiplied by the actual number of days

elapsed. Except as otherwise set forth in this Agreement, interest shall be paid in arrears.

(b) Borrower hereby agrees to pay sums due under the Note as follows: An initial payment of is due on the Closing Date for interest from the Closing Date through and including October 31, 2003. Thereafter, except as may be adjusted in accordance with the last sentence of Section 2.2(c), (1) consecutive monthly installments of interest only in an amount calculated in accordance with Section 2.2(a) above (such amount, the "I/O Monthly Payment Amount") shall be payable on the first day of each month beginning December 1, 2003 (each such date through and including the Maturity Date, a "Scheduled Payment Date") through and including the Scheduled Payment Date occurring in November, 2005 and (2) thereafter, consecutive monthly installments of principal and interest in an amount equal to the sum set forth on Schedule 1, attached hereto, shall be payable pursuant to the terms of Section 2.2(d) (the "Constant Monthly Payment Amount"; the I/O Monthly Payment Amount and the Constant Monthly Payment Amount shall hereinafter be collectively referred to as the "Monthly Payment Amount") on each Scheduled Payment Date until the entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on the Maturity Date.

(c) The Constant Monthly Payment Amount shall mean the amount of interest and principal which would be due in order to fully amortize the principal amount of the Loan over an amortization term of thirty (30) years assuming an annual interest rate equal to the Note Rate, computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each. Borrower expressly understands and agrees that such computation of interest based on a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each is solely for the purpose of determining the Monthly Payment Amount, and, notwithstanding such computation, interest shall accrue on the outstanding principal amount of the Loan as provided in Section 2.2(a) above. Borrower understands and acknowledges that such interest accrual requirement results in more interest accruing on the Loan than if either a thirty (30) day month and a three hundred sixty (360) day year or the actual number of days and a three hundred sixty-five (365) day year were used to compute the accrual of interest on the Loan. Borrower recognizes that such interest accrual requirement will not fully amortize the Loan within the amortization period set forth above. Following any partial prepayment occurring solely as a result of the application of Insurance Proceeds or Awards pursuant to the terms of this Agreement, Lender may, in its sole and absolute discretion, adjust the Monthly Payment Amount to give effect to any such partial prepayment, provided, however, that in no event will any such adjustment result in any such installment becoming due and payable on any date after the Maturity Date.

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(d) Each payment by Borrower hereunder or under the Note shall be payable at the payment address set forth on Schedule 1, attached hereto, or at such other place as the Lender may designate from time to time in writing, on the date such payment is due, to Lender by deposit to such account as Lender may designate by written notice to Borrower. Whenever any payment hereunder or under the Note shall be stated to be due on a day which is not a Business Day, such payment shall be made on the first Business Day preceding such scheduled due date.

(e) Prior to the occurrence and following the cure (in accordance with the terms hereof) of an Event of Default, all monthly payments made as scheduled under this Agreement and the Note shall be applied first to the payment of interest computed at the Note Rate, and the balance toward the reduction of the principal amount of the Note. All voluntary and involuntary prepayments on the Note shall be applied, to the extent thereof, to accrued but unpaid interest on the amount prepaid, to the remaining principal amount, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion, including, but not limited to, application to principal installments in inverse order of maturity. Following the occurrence and during the continuance of an Event of Default, any

payment made on the Note shall be applied to accrued but unpaid interest, late charges, accrued fees, the unpaid principal amount of the Note, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion.

(f) All payments made by Borrower hereunder or under the Note or the other Loan Documents shall be made irrespective of, and without any deduction for, any setoff, defense or counterclaims.

#### SECTION 2.3. LATE PAYMENT CHARGE

If any principal or interest payment is not paid by Borrower on or before the date which is ten (10) calendar days after the same is due, Borrower shall pay to Lender upon demand an amount equal to the lesser of four percent (4%) of such unpaid sum or the maximum amount permitted by applicable law in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. Any such amount shall be secured by the Mortgage and the other Loan Documents to the extent permitted by applicable law.

#### SECTION 2.4. PREPAYMENT; DEFEASANCE

Except as otherwise expressly permitted by this Section 2.4, no voluntary prepayments, whether in whole or in part, of the Loan or any other amount at any time due and owing under the Note can be made by Borrower or any other Person without the express written consent of Lender.

(a) Lockout Period. Borrower has no right to make, and Lender shall have no obligation to accept, any voluntary prepayment, whether in whole or in part, of the Loan during the Lockout Period. Notwithstanding the foregoing, if either (i) Lender, in its sole and absolute discretion, accepts a full or partial voluntary prepayment during the Lockout Period or (ii) there is an involuntary prepayment during the Lockout Period, then, in either case, Borrower shall, in

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addition to any portion of the Loan prepaid (together with all interest accrued and unpaid thereon), pay to Lender a prepayment premium in an amount calculated in accordance with Section 2.4(d) hereof.

(b) Total Defeasance.

(i) Notwithstanding any provisions of this Section 2.4 to the contrary, including, without limitation, subsection (a) of this Section 2.4, at any time after the earlier to occur of the (1) expiration of the REMIC Prohibition Period or (2) expiration of the Substitution/Defeasance Lockout Period, Borrower may cause the release of the Property from the lien of the Mortgage and the other Loan Documents upon the satisfaction of the following conditions:

(A) no Event of Default shall exist under any of the Loan Documents;

(B) not less than thirty (30) (but not more than ninety (90)) days prior written notice shall be given to Lender specifying a date on which the Defeasance Collateral (as hereinafter defined) is to be delivered (the "RELEASE Date"), such date being on a Scheduled Payment Date; provided, however, that Borrower shall have the right (i) to cancel such notice by providing Lender with notice of cancellation ten (10) days prior to the scheduled Release Date, or (ii) to extend the scheduled Release Date until the next Scheduled Payment Date; provided that in each case, Borrower shall pay all of Lender's reasonable costs and expenses incurred as a result of such cancellation or extension;

(C) all accrued and unpaid interest and all other sums due under the Note, this Agreement and under the other Loan Documents up to the Release Date, including, without limitation, all reasonable fees, costs and expenses incurred by Lender and its agents in connection with such release (including, without limitation, reasonable legal fees and expenses for the review and preparation of the Defeasance Security Agreement (as hereinafter defined) and of the other materials described in Section 2.4(b)(i)(D) below and any related documentation, and any servicing fees, Rating Agency fees or other costs related to such release), shall be paid in full on or prior to the Release Date;

(D) Borrower shall deliver to Lender on or prior to the Release Date:

(1) a pledge and security agreement, in form and substance which would be satisfactory to a prudent institutional mortgage loan lender, creating a first priority security interest in favor of Lender in the Defeasance Collateral, as defined herein (the "DEFEASANCE SECURITY AGREEMENT"), which shall provide, among other things, that any excess amounts received by Lender from the Defeasance Collateral over the amounts payable by Borrower on a given Scheduled Payment Date, which excess amounts are not required to cover all or any portion of amounts payable on a future Scheduled Payment Date, shall be refunded to Borrower promptly after each such Scheduled Payment Date;

(2) direct non-callable obligations of the United States of America (or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the

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Investment Company Act of 1940, to the extent the applicable Rating Agencies rating the Securities have confirmed in writing will not cause a downgrade, withdrawal or qualification of the initial, or, if higher, then applicable ratings of the Securities), that provide for payments prior and as close as possible to (but in no event later than) all successive Scheduled Payment Dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding Monthly Payment Amount required to be paid under this Agreement and the Note (including all amounts due on the Maturity Date) for the balance of the term hereof (the "DEFEASANCE COLLATERAL"), each of which shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance which would be satisfactory to a prudent lender (including, without limitation, such certificates, documents and instruments as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the Defeasance Security Agreement the first priority security interest therein in favor of Lender in conformity with all applicable state and federal laws governing granting of such security interests;

(3) a certificate of Borrower certifying that all of the requirements set forth in this Section 2.4(b)(i) have been satisfied;

(4) one or more opinions of counsel for Borrower in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that (i) Lender has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms, (ii) the release of the lien of the Mortgage and the pledge of Defeasance Collateral will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (iii) the defeasance will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost;

(5) a certificate in form and scope which would be acceptable to a prudent lender from an Acceptable Accountant certifying that the Defeasance Collateral will generate amounts sufficient to make all payments of principal and interest due under the Note (including the scheduled outstanding principal balance of the Loan due on the Maturity Date); and

(6) such other certificates, documents and instruments as a prudent institutional lender would require; and

(E) in the event the Loan is held by a REMIC Trust, Lender has received written confirmation from any Rating Agency rating any Securities that substitution of the Defeasance Collateral will not result in a downgrade, withdrawal, or qualification of the ratings then assigned to any of the Securities.

(ii) Upon compliance with the requirements of Section 2.4(b)(i), the Property shall be released from the lien of the Mortgage and the other Loan Documents, and the Defeasance Collateral shall constitute collateral which shall secure the Note and all other obligations under the Loan Documents. Lender will, at Borrower's expense, execute and

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deliver any agreements reasonably requested by Borrower to release the lien of the Mortgage and the other Loan Documents from the Property.

(iii) Upon the release of the Property in accordance with this Section 2.4(b), Borrower shall (at Lender's sole and absolute discretion) assign all its obligations and rights under the Note, together with the pledged Defeasance Collateral, to a successor entity designated and approved by Lender in its sole and absolute discretion ("SUCCESSOR BORROWER"). Successor Borrower shall execute an assignment and assumption agreement in form and substance which would be satisfactory to a prudent lender pursuant to which it shall assume Borrower's obligations under the Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, Borrower shall (A) deliver to Lender one or more opinions of counsel in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that such assignment and assumption agreement is enforceable against Borrower and the Successor Borrower in accordance with its terms and that the Note, the Defeasance Security Agreement and the other Loan Documents, as so assigned and assumed, are enforceable against the Successor Borrower in accordance with their respective terms, and opining to such other matters relating to Successor Borrower and its organizational structure as Lender may require, and (B) pay all reasonable fees, costs and expenses incurred by Lender or its agents in connection with such assignment and assumption (including, without limitation, legal fees and expenses and for the review of the proposed transferee and the preparation of the assignment and assumption agreement and related certificates, documents and instruments and any fees payable to any Rating Agencies and their counsel in connection with the issuance of the confirmation referred to in subsection (b)(i)(E) above). Upon such assignment and assumption, Borrower shall be relieved of its obligations hereunder, under the Note, under the other Loan Documents and under the Defeasance Security Agreement, except as expressly set forth in the assignment and assumption agreement.

(iv) For purposes of this Section 2.4, "REMIC PROHIBITION PERIOD" means the two-year period commencing with the "startup day" within the meaning of Section 860G(a)(9) of the Code of any REMIC Trust that holds the Note. In no event shall Lender have any obligation to notify Borrower that a REMIC Prohibition Period is in effect with

respect to the Loan, except that Lender shall notify Borrower if any REMIC Prohibition Period is in effect with respect to the Loan after receiving any notice described in Section 2.4(b)(i)(B); provided, however, that the failure of Lender to so notify Borrower shall not impose any liability on Lender or grant Borrower any right to defease the Loan during any such REMIC Prohibition Period.

(c) Intentionally deleted.

(d) Involuntary Prepayment During the Lockout Period. During the Lockout Period, in the event of any involuntary prepayment of the Loan or any other amount under the Note, whether in whole or in part, in connection with or following Lender's acceleration of the Note or otherwise, and whether the Mortgage is satisfied or released by foreclosure (whether by power of sale or judicial proceeding), deed in lieu of foreclosure or by any other means, including, without limitation, repayment of the Loan by Borrower or any other Person pursuant to any statutory or

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common law right of redemption, Borrower shall, in addition to any portion of the principal balance of the Loan prepaid (together with all interest accrued and unpaid thereon and in the event the prepayment is made on a date other than a Scheduled Payment Date, a sum equal to the amount of interest which would have accrued under the Note on the amount of such prepayment if such prepayment had occurred on the next Scheduled Payment Date), pay to Lender a prepayment premium in an amount calculated in accordance with this Section 2.4(d). Such prepayment premium shall be in an amount equal to the greater of:

(i) 1% of the portion of the Loan being prepaid; or

(ii) the product obtained by multiplying:

(A) the portion of the Loan being prepaid,  
times;

(B) the difference obtained by subtracting (I)  
the Yield Rate from (II) the Note Rate, times;

(C) the present value factor calculated using  
the following formula:

$$\frac{1-(1+r)^{-n}}{r}$$

r = Yield Rate

n = the number of years and any fraction  
thereof, remaining between the date the  
prepayment is made and the Maturity Date  
of the Note.

As used herein, "YIELD RATE" means the yield per annum calculated by Lender by the linear interpolation of the yield of U.S. Treasury Securities having a maturity date (one longer and one shorter) most nearly approximating the Maturity Date as reported on the fifth Business Day preceding the Prepayment Calculation Date. The "PREPAYMENT CALCULATION DATE" shall mean, as applicable, the date on which (i) Lender applies any partial prepayment to the reduction of the outstanding principal amount of the Note, in the case of a voluntary partial prepayment which is accepted by Lender, (ii) Lender accelerates the Loan, in the case of a prepayment resulting from acceleration, or (iii) Lender applies funds held under any Reserve Account, in the case of a prepayment resulting from such an application (other than in connection with acceleration of the Loan).

(e) Insurance and Condemnation Proceeds; Excess Interest.

Notwithstanding any other provision herein to the contrary, and provided no Event of Default exists, Borrower shall not be required to pay any prepayment premium in connection with any prepayment occurring solely as a result of (i) the application of Insurance Proceeds or Condemnation Proceeds pursuant to the terms of the Loan Documents, or (ii) the application of any interest in excess of the Maximum Legal Rate.

(f) After the Lockout Period. Commencing on the day after the expiration of the Lockout Period, and upon giving Lender at least thirty (30) days (but not more than ninety (90) days) prior written notice, Borrower may voluntarily prepay (without premium) the Note in

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whole (but not in part) on a Scheduled Payment Date. Lender shall accept a prepayment pursuant to this Section 2.4(h) on a day other than a Scheduled Payment Date provided that, in addition to payment of the full outstanding principal balance of the Note, Borrower pays to Lender a sum equal to the amount of interest which would have accrued on the Note if such prepayment occurred on the next Scheduled Payment Date (the "INTEREST SHORTFALL").

(g) Limitation on Partial Prepayments. Except as set forth in Section 2.4(e), in no event shall Lender have any obligation to accept a partial prepayment.

SECTION 2.5. INTENTIONALLY DELETED.

SECTION 2.6. PAYMENTS AFTER DEFAULT

Upon the occurrence and during the continuance of an Event of Default, interest on the outstanding principal balance of the Loan and, to the extent permitted by law, overdue interest and other amounts due in respect of the Loan, (a) shall accrue at the Default Rate, and (b) Lender shall be entitled to receive and Borrower shall pay to Lender all cash flow from the Property in accordance with the terms of Article X hereof, such amount to be applied by Lender to the payment of the Debt in such order as Lender shall determine in its sole discretion, including, without limitation, alternating applications thereof between interest and principal. Interest at the Default Rate shall be computed from the occurrence of the Event of Default until the earlier of (i) the actual receipt and collection of the Debt (or that portion thereof that is then due) and (ii) the cure of such Event of Default. To the extent permitted by applicable law, interest at the Default Rate shall be added to the Debt, shall itself accrue interest at the same rate as the Loan and shall be secured by the Mortgage. This paragraph shall not be construed as an agreement or privilege to extend the date of the payment of the Debt, nor as a waiver of any other right or remedy accruing to Lender by reason of the occurrence of any Event of Default; the acceptance of any payment from Borrower shall not be deemed to cure or constitute a waiver of any Event of Default; and Lender retains its rights under this Agreement to accelerate and to continue to demand payment of the Debt upon the happening of and during the continuance any Event of Default, despite any payment by Borrower to Lender.

SECTION 2.7. USURY SAVINGS

This Agreement and the Note are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the principal balance of the Loan at a rate which could subject Lender to either civil or criminal liability as a result of being in excess of the Maximum Legal Rate. If, by the terms of this Agreement or the other Loan Documents, Borrower is at any time required or obligated to pay interest on the principal balance due hereunder at a rate in excess of the Maximum Legal Rate, the Note Rate or the Default Rate, as the case may be, shall be deemed to be immediately reduced to the Maximum Legal Rate and all previous payments in excess of the Maximum Legal Rate shall be deemed to have been payments in reduction of principal and not on account of the interest due hereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the sums due under the Loan,

shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount of interest on account of the Loan does not exceed the Maximum Legal Rate of interest from

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time to time in effect and applicable to the Loan for so long as the Loan is outstanding. Borrower hereby agrees to pay an effective rate of interest that is the sum of the interest rate provided for herein, together with any additional interest or rate of interest resulting from any other charges of interest or in the nature of interest paid or to be paid in connection with the Loan, including, without limitation, any fees to be paid by Borrower pursuant to the provisions of any and/or all of the Loan Documents. Lender and Borrower agree that none of the terms and provisions contained herein or in any of the Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the Maximum Legal Rate.

ARTICLE 3  
CONDITIONS PRECEDENT

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

SECTION 3.1. REPRESENTATIONS AND WARRANTIES; COMPLIANCE WITH CONDITIONS

The representations and warranties of Borrower contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of such date, and Lender shall have determined that no Default or an Event of Default shall have occurred and be continuing nor will any Default or Event of Default occur immediately following the Closing Date; and Borrower shall be in compliance in all material respects with all terms and conditions set forth in this Agreement and in each other Loan Document on its part to be observed or performed.

SECTION 3.2. DELIVERY OF LOAN DOCUMENTS; TITLE INSURANCE; REPORTS;  
LEASES

(a) Mortgage, Loan Agreement and Note. Lender shall have received from Borrower a fully executed and acknowledged counterpart of the Mortgage and evidence that counterparts of the Mortgage and Uniform Commercial Code financing statements have been delivered to the title company for recording, in the reasonable judgment of Lender, so as to effectively create upon such recording valid and enforceable Liens upon the Property, of the requisite priority, in favor of Lender (or such other trustee as may be required or desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents. Lender shall have also received from Borrower fully executed counterparts of the Environmental Indemnity (if applicable), this Agreement, the Note and Assignment of Management Agreement and all other Loan Documents.

(b) Title Insurance. Lender shall have received a Title Insurance Policy issued by a title company acceptable to Lender and dated as of the Closing Date. Such Title Insurance Policy shall (i) provide coverage in the amount of the Loan, (ii) insure Lender that the Mortgage creates a valid lien on the Property of the requisite priority, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified by the terms of any endorsements), (iii) contain such endorsements and affirmative coverages as Lender may reasonably request, and (iv) name Lender as the insured.

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The Title Insurance Policy shall be assignable. Lender also shall have received evidence that all premiums in respect of such Title Insurance Policy have been paid.

(c) Survey. Lender shall have received a current title survey for the Property, certified to the title company and Lender and their successors and assigns, in form and content satisfactory to Lender and prepared by a professional and properly licensed land surveyor satisfactory to Lender in accordance with the 1999 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys. The survey shall meet the classification of an "Urban Survey" and the following additional items from the list of "Optional Survey Responsibilities and Specifications" (Table A) should be added to each survey: 2, 3, 4, 6, 8, 9, 10 and 11(a) (excluding individual manufactured home pads and individual parking spaces provided the applicable surveyor certifies that the same do not violate any boundaries, setbacks or easements). Such survey shall reflect the same legal description contained in the Title Insurance Policy referred to in subsection (b) above and shall include, among other things, a metes and bounds or recorded plat description of the real property comprising part of the Property reasonably satisfactory to Lender. The surveyor's seal shall be affixed to the survey and the surveyor shall provide a certification for each survey in form and substance acceptable to Lender.

(d) Insurance. Lender shall have (i) had an opportunity to have its insurance representative review copies of the Policies required hereunder, (ii) received certificates with respect to the Policies and (iii) received evidence of the payment of all Insurance Premiums payable for the existing policy period all of which shall be satisfactory to Lender in its sole discretion. In no event shall Borrower be required to provide terrorism insurance.

(e) Environmental Reports. Lender shall have received an Environmental Report in respect of the Property satisfactory to Lender.

(f) Zoning/Building Code. Lender shall have received evidence of compliance with zoning and building ordinances and codes, including, without limitation, required certificates of occupancy for any permanent structure, reasonably acceptable to Lender.

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

(h) Lien Searches. Lender shall have received certified search results pertaining to Borrower, Borrower Principal and such other Persons or any SPE Component Entity as reasonably required by Lender for state and federal tax liens, bankruptcy, judgment, litigation and state and local UCC filings

### SECTION 3.3. RELATED DOCUMENTS

Each additional document not specifically referenced herein, but relating to the transactions contemplated herein, shall have been duly authorized, executed and delivered by all parties thereto and at Lender's written request, Lender shall have received and approved certified copies thereof.

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### SECTION 3.4. ORGANIZATIONAL DOCUMENTS

On or before the Closing Date, Borrower shall deliver or cause to be delivered to Lender (a) copies certified by Borrower of all organizational documentation related to Borrower, each SPE Component Entity and Borrower Principal which must be acceptable to Lender in its reasonable discretion, and

(b) such other evidence of the formation, structure, existence, good standing and/or qualification to do business of Borrower, each SPE Component Entity and Borrower Principal, as Lender may request in its reasonable discretion, including, without limitation, good standing or existence certificates, qualifications to do business in the appropriate jurisdictions, resolutions authorizing the entering into of the Loan and incumbency certificates as may be requested by Lender.

#### SECTION 3.5. OPINIONS OF BORROWER'S COUNSEL

Lender shall have received opinions of Borrower's counsel (a) with respect to non-consolidation issues (if the amount of the Loan equals or exceeds \$20,000,000) and (b) with respect to due execution, authority, enforceability of the Loan Documents and such other matters as Lender may require, all such opinions in form, scope and substance satisfactory to Lender and Lender's counsel in their sole discretion.

#### SECTION 3.6. ANNUAL BUDGET

Borrower shall have delivered to Lender an annual budget for the current fiscal year.

#### SECTION 3.7. TAXES AND OTHER CHARGES

Borrower shall have paid all Taxes and Other Charges (including any in arrears) relating to the Property, which amounts may be funded with proceeds of the Loan.

#### SECTION 3.8. COMPLETION OF PROCEEDINGS

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

#### SECTION 3.9. PAYMENTS

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

#### SECTION 3.10. TRANSACTION COSTS

Except as otherwise expressly provided herein, Borrower shall have paid or reimbursed Lender for all reasonable out of pocket expenses in connection with the underwriting, negotiation, and closing of the Loan, including title insurance premiums and other title company

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charges; recording, registration, filing and similar fees, taxes and charges; transfer, mortgage, deed, stamp or documentary taxes or similar fees or charges; costs of third-party reports, including without limitation, environmental studies, credit reports, seismic reports, engineer's reports, appraisals and surveys; underwriting and origination expenses; and all actual, reasonable legal fees and expenses charged by counsel to Lender.

#### SECTION 3.11. NO MATERIAL ADVERSE CHANGE

There shall have been no material adverse change in the financial condition or business condition of the Property, Borrower, Borrower Principal, any SPE Component Entity or Manager since the date of the most recent financial statements and/or other information delivered to Lender. The income and expenses of the Property, the occupancy and leases thereof, and all other features of the transaction shall be as represented to Lender without material adverse change.

Neither Borrower nor Borrower Principal, any SPE Component Entity or Affiliated Manager shall be the subject of any bankruptcy, reorganization, or insolvency proceeding.

SECTION 3.12. LEASES AND RENT ROLL

Lender shall have received copies of all Major Leases affecting the Property, which shall be satisfactory in form and substance to Lender. Lender shall have received a current certified rent roll of the Property, reasonably satisfactory in form and substance to Lender.

SECTION 3.13. INTENTIONALLY DELETED.

SECTION 3.14. INTENTIONALLY DELETED.

SECTION 3.15. INTENTIONALLY DELETED.

SECTION 3.16. TAX LOT

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

SECTION 3.17. PHYSICAL CONDITIONS REPORT

Lender shall have received a Physical Conditions Report with respect to the Property, which report shall be reasonably satisfactory in form and substance to Lender.

SECTION 3.18. MANAGEMENT AGREEMENT

Lender shall have received a certified copy of the Management Agreement with respect to the Property which shall be satisfactory in form and substance to Lender.

SECTION 3.19. APPRAISAL

Lender shall have received an appraisal of the Property, which shall be satisfactory in form and substance to Lender.

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SECTION 3.20. FINANCIAL STATEMENTS

Lender shall have received financial statements and related information in form and substance satisfactory to Lender and in compliance with any Legal Requirements promulgated by the Securities and Exchange Commission, including, without limitation, a balance sheet, income and expense statement and statement of cash flows with respect to MHC (on a consolidated basis with MHCOP) and an operating statement with respect to the Property for the year-to-date 2003, 2002, 2001, 2000 and 1999.

SECTION 3.21. INTENTIONALLY DELETED

SECTION 3.22. FURTHER DOCUMENTS

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

ARTICLE 4  
REPRESENTATIONS AND WARRANTIES

Borrower and, with respect to Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31,

4.39, and 4.40, each Borrower Principal represents and warrants to Lender as of the Closing Date that:

#### SECTION 4.1. ORGANIZATION

Borrower and each Borrower Principal (when not an individual) (a) has been duly organized and is validly existing and in good standing with requisite power and authority to own its properties and to transact the businesses in which it is now engaged, (b) is duly qualified to do business and is in good standing in each jurisdiction where it is required to be so qualified in connection with its properties, businesses and operations, (c) to the best of Borrower's knowledge, possesses all material rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to own its properties and to transact the businesses in which it is now engaged, and the sole business of Borrower is the ownership, management and operation of the Property, and (d) in the case of Borrower, has full power, authority and legal right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to the terms of the Loan Documents, and in the case of Borrower and each Borrower Principal, has full power, authority and legal right to keep and observe all of the terms of the Loan Documents to which it is a party. Borrower and each Borrower Principal represent and warrant that the chart attached hereto as Exhibit B sets forth an accurate listing of the direct and indirect owners of the equity interests in Borrower and each SPE Component Entity (if any).

#### SECTION 4.2. STATUS OF BORROWER

Borrower's exact legal name is correctly set forth on the first page of this Agreement, on the Mortgage and on any UCC-1 Financing Statements filed in connection with the Loan. Borrower is an organization of the type specified on the first page of this Agreement. Borrower is incorporated in or organized under the laws of the state of Delaware. Borrower's principal

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place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of Borrower) the address of Borrower set forth on the first page of this Agreement. Borrower's organizational identification number, if any, assigned by the state of incorporation or organization is set forth on Schedule 1, attached hereto.

#### SECTION 4.3. VALIDITY OF DOCUMENTS

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

#### SECTION 4.4. NO CONFLICTS

The execution, delivery and performance of this Agreement and the other Loan Documents by Borrower and each Borrower Principal will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance (other than pursuant to the Loan Documents) upon any of the property or assets of Borrower or any Borrower Principal pursuant to the terms of any

agreement or instrument to which Borrower or any Borrower Principal is a party or by which any of Borrower's or Borrower Principal's property or assets is subject, nor to the best of Borrower's knowledge will such action result in any violation of the provisions of any statute or any order, rule or regulation of any Governmental Authority having jurisdiction over Borrower or any Borrower Principal or any of Borrower's or Borrower Principal's properties or assets, and any consent, approval, authorization, order, registration or qualification of or with any Governmental Authority required for the execution, delivery and performance by Borrower or Borrower Principal of this Agreement or any of the other Loan Documents has been obtained and is in full force and effect.

#### SECTION 4.5. LITIGATION

There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other agency now pending or, to Borrower's or Borrower Principal's knowledge, threatened against or affecting Borrower, any Borrower Principal, Manager or the Property, which actions, suits or proceedings, if determined against Borrower, any Borrower Principal, Manager or the Property, would materially adversely affect the condition (financial or otherwise) or business of Borrower or any Borrower Principal or the condition or ownership of the Property other than as disclosed in Schedule 4.5 attached hereto.

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#### SECTION 4.6. AGREEMENTS

Borrower is not a party to any agreement or instrument or subject to any restriction which would materially and adversely affect Borrower or the Property, or Borrower's business, properties or assets, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party or by which Borrower or the Property is bound. Borrower has no material financial obligation under any agreement or instrument to which Borrower is a party or by which Borrower or the Property is otherwise bound, other than (a) obligations incurred in the ordinary course of the operation of the Property and (b) obligations under the Loan Documents.

#### SECTION 4.7. SOLVENCY

Borrower and each Borrower Principal have (a) not entered into the transaction or executed the Note, this Agreement or any other Loan Documents with the actual intent to hinder, delay or defraud any creditor and (b) received reasonably equivalent value in exchange for their obligations under such Loan Documents. Giving effect to the Loan, the fair saleable value of the assets of Borrower and each Borrower Principal exceeds and will, immediately following the making of the Loan, exceed the total liabilities of Borrower and each Borrower Principal, including, without limitation, subordinated, unliquidated, disputed and contingent liabilities. No petition in bankruptcy has been filed against Borrower, any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years, and neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years has made an assignment for the benefit of creditors or taken advantage of any Creditors Rights Laws. Neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager is contemplating either the filing of a petition by it under any Creditors Rights Laws or the liquidation of all or a major portion of Borrower's assets or property, and Borrower has no knowledge of any Person contemplating the filing of any such petition against Borrower or any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager.

#### SECTION 4.8. FULL AND ACCURATE DISCLOSURE

To the best of Borrower's knowledge, no statement of fact made by or on behalf of Borrower or any Borrower Principal in this Agreement or in any of the

other Loan Documents or in any other document or certificate delivered by or on behalf of Borrower or any Borrower Principal contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no material fact presently known to Borrower or any Borrower Principal which has not been disclosed to Lender which materially and adversely affects, nor as far as Borrower or any Borrower Principal can reasonably foresee, might materially and adversely affect, the Property or the business, operations or condition (financial or otherwise) of Borrower or any Borrower Principal.

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#### SECTION 4.9. NO PLAN ASSETS

Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101. In addition, (a) Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (b) transactions by or with Borrower are not subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans similar to the provisions of Section 406 of ERISA or Section 4975 of the Internal Revenue Code currently in effect, which prohibit or otherwise restrict the transactions contemplated by this Agreement.

#### SECTION 4.10. NOT A FOREIGN PERSON

Neither Borrower nor Borrower Principal is a "foreign person" within the meaning of ss.1445(f) (3) of the Internal Revenue Code.

#### SECTION 4.11. ENFORCEABILITY

The Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense by Borrower, including the defense of usury, nor would the operation of any of the terms of the Loan Documents, or the exercise of any right thereunder, render the Loan Documents unenforceable, and neither Borrower nor Borrower Principal has asserted any right of rescission, set-off, counterclaim or defense with respect thereto. No Default or Event of Default exists under or with respect to any Loan Document.

#### SECTION 4.12. BUSINESS PURPOSES

The Loan is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

#### SECTION 4.13. COMPLIANCE

To the best of Borrower's knowledge, Borrower and the Property, and the use and operation thereof, comply in all material respects with all Legal Requirements, including, without limitation, building and zoning ordinances and codes and the Americans with Disabilities Act except as expressly disclosed in any written materials furnished by Borrower to Lender or as expressly disclosed in any physical condition report or environmental report received by Lender in connection with the closing of the Loan. To Borrower's knowledge, Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority and Borrower has received no written notice of any such default or violation which if determined against Borrower or the Property would materially adversely affect Borrower or the Property. There has not been committed by Borrower or, to Borrower's knowledge, any other Person in occupancy of or involved with the operation or use of the Property any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

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#### SECTION 4.14. FINANCIAL INFORMATION

All financial data, including, without limitation, the balance sheets, statements of cash flow, statements of income and operating expense and rent rolls, that have been delivered to Lender in respect of Borrower, any Borrower Principal and/or the Property (a) are true, complete and correct in all material respects, (b) accurately represent the financial condition of Borrower, Borrower Principal or the Property, as applicable, as of the date of such reports, and (c) to the extent prepared or audited by an independent certified public accounting firm, have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein. To Borrower's actual knowledge after due inquiry, Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and reasonably likely to have a material adverse effect on the Property or the current and/or intended operation thereof, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower or Borrower Principal from that set forth in said financial statements.

#### SECTION 4.15. CONDEMNATION

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

#### SECTION 4.16. UTILITIES AND PUBLIC ACCESS; PARKING

The Property (i) has adequate rights of access to public ways directly, or indirectly, pursuant to private easements which have been adequately insured under the Title Insurance Policy and (ii) is served by water, sewer, sanitary sewer and storm drain facilities which, to the best of Borrower's knowledge, are adequate to service the Property for full utilization of the Property for its intended uses. All public utilities necessary to the full use and enjoyment of the Property as currently used and enjoyed are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded easements serving the Property and such easements are set forth in and insured by the Title Insurance Policy. All roads necessary for the use of the Property for its current purposes have been completed and dedicated to public use and accepted by all Governmental Authorities. The Property has, or is served by, parking to the extent required to comply with all Legal Requirements in all material respects.

#### SECTION 4.17. SEPARATE LOTS

The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof.

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#### SECTION 4.18. ASSESSMENTS

To Borrower's knowledge after due inquiry, there are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, nor are there any contemplated improvements to the Property that may result in such special or other assessments.

#### SECTION 4.19. INSURANCE

Borrower has obtained and has delivered to Lender certified copies of

all Policies or, to the extent such Policies are not available as of the Closing Date, certificates of insurance with respect to all such Policies reflecting the insurance coverages, amounts and other requirements set forth in this Agreement. No claims have been made under any of the Policies, and to Borrower's knowledge, no Person, including Borrower, has done, by act or omission, anything which would impair the coverage of any of the Policies.

#### SECTION 4.20. USE OF PROPERTY

The Property is used exclusively for mobile home community and/or recreational vehicle resort purposes, as applicable, and other appurtenant and related uses.

#### SECTION 4.21. CERTIFICATE OF OCCUPANCY; LICENSES

All material certifications, permits, licenses and approvals, including, without limitation, certificates of completion or occupancy and any applicable liquor license required for the legal use, occupancy and operation of the Property for the purpose intended herein, have been obtained and are valid and in full force and effect. Borrower shall keep and maintain all licenses necessary for the operation of the Property for the purpose intended herein. The use being made of the Property is in conformity with any certificates of occupancy and any permits or licenses issued for the Property. The Property contains all equipment necessary to use and operate the Property as a mobile home community and/or recreational vehicle resort, as applicable.

#### SECTION 4.22. FLOOD ZONE

None of the Improvements on the Property are located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards, or, if any portion of the Improvements is located within such area, Borrower has obtained the insurance prescribed in Section 8.1(a)(i).

#### SECTION 4.23. PHYSICAL CONDITION

To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report delivered to Lender in connection with the closing of the Loan, the Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems (including, but not limited to, liquid and solid waste disposal, septic and sewer systems), HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects. To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report

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delivered to Lender in connection with the closing of the Loan, there exists no structural or other material defects or damages in the Property, as a result of a Casualty or otherwise, and whether latent or otherwise. Borrower has not received notice from any insurance company or bonding company of any defects or inadequacies in the Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

#### SECTION 4.24. BOUNDARIES

(a) Except as disclosed in the Survey of the Property delivered to Lender in connection with the closing of the Loan and for which adequate insurance has been obtained under the Title Insurance Policy, none of the Improvements which were included in determining the appraised value of the Property lie outside the boundaries and building restriction lines of the Property to any material extent, and (b) no improvements on adjoining properties encroach upon the Property and no easements or other encumbrances upon the



Property encroach upon any of the Improvements so as to materially affect the value or marketability of the Property and for which title endorsements that are reasonably acceptable to Lender have not been obtained.

#### SECTION 4.25. LEASES AND RENT ROLL

Borrower has delivered to Lender a true, correct and complete rent roll for the Property (a "RENT ROLL") which includes all Leases affecting the Property and contains an aging report setting forth past due amounts with respect to the Tenants; provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort, written Leases are not used in the ordinary course of the Property's operation. Except as set forth in the Rent Roll (as same has been updated by written notice thereof to Lender): (a) each Lease is in full force and effect; (b) the premises demised under any Major Leases have been completed and the Tenants under the Leases have accepted possession of and are in occupancy of all of their respective demised premises; (c) the Tenants under the Leases have commenced the payment of rent under the Leases, and except as expressly permitted under applicable law, there are no offsets, claims or defenses to the enforcement thereof, and Borrower has no outstanding monetary obligations to any Tenant under any Lease; (d) all Rents due and payable under any Major Leases have been paid and no portion thereof has been paid for any period more than thirty (30) days in advance; (e) the rent payable under each Lease is the amount of fixed rent set forth in the Rent Roll, and there is no claim or basis for a claim by the Tenant thereunder for an offset or adjustment to the rent; (f) (1) no Tenant has made any written claim of a material default against the landlord under any Major Lease which remains outstanding nor has Borrower or Manager received, by telephonic, in-person, e-mail or other communication, any notice of a material default under any Lease and (2) no more than five percent (5%) of Tenants under pad leases have made any written claims of material defaults from against the landlord which remain outstanding nor has Borrower or Manager received any written notice of material defaults from greater than five percent (5%) of the Tenants under such Leases; (g) to Borrower's knowledge there is no present material default by a Tenant under any Major Lease; (h) all security deposits under the Leases have been collected by Borrower; (i) Borrower is the sole owner of the entire landlord's interest in each Lease; (j) each Lease is the valid, binding and enforceable obligation of Borrower and the applicable Tenant thereunder and there are no agreements with the Tenants

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under any Major Leases other than as expressly set forth in the Leases; (k) no Person has any possessory interest in, or right to occupy, the Property or any portion thereof except under the terms of a Lease (or as otherwise provided for under applicable law); provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort (and for so long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan), written Leases are not used in the ordinary course of the Property's operation; (l) none of the Leases contains any option or offer to purchase or right of first refusal to purchase the Property or any part thereof, except to the extent such rights of first refusal are provided to Tenants (occupying the Property under pad Leases) or a homeowner's association, solely as the result of applicable Legal Requirements; (m) neither the Leases nor the Rents have been assigned, pledged or hypothecated except to Lender, and no other Person has any interest therein except the Tenants thereunder; and (n) no conditions exist which now give any Tenant or party the right to "go dark" pursuant to the provision of any Major Lease and/or the any REA. In the event there are any Leases affecting the Property relating to laundry facilities (each, a "LAUNDRY LEASE"), none of any such Laundry Leases (A) provides that the Tenant under such Laundry Lease shall be entitled to any proceeds payable in connection with a Casualty of Condemnation, (B) contains any option or offer to purchase or right of first refusal or right of first offer to purchase the Property or any part thereof, (C) comprises a material portion of the Property or (D) imposes any material obligations upon Borrower.

#### SECTION 4.26. FILING AND RECORDING TAXES

All mortgage, mortgage recording, stamp, intangible or other similar tax required to be paid by any Person under applicable Legal Requirements currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, the Mortgage, have been paid or will be paid, and, under current Legal Requirements, the Mortgage is enforceable in accordance with its terms by Lender (or any subsequent holder thereof).

#### SECTION 4.27. MANAGEMENT AGREEMENT

The Management Agreement is in full force and effect and there is no default thereunder by any party thereto and, to Borrower's knowledge, no event has occurred that, with the passage of time and/or the giving of notice would constitute a default thereunder. No management fees under the Management Agreement are accrued and unpaid.

#### SECTION 4.28. ILLEGAL ACTIVITY

No portion of the Property has been or will be purchased with proceeds of any illegal activity, and no part of the proceeds of the Loan will be used in connection with any illegal activity.

#### SECTION 4.29. CONSTRUCTION EXPENSES

All costs and expenses of any and all labor, materials, supplies and equipment used in the construction maintenance or repair of the Improvements have been paid in full or to the extent any such costs and expenses have resulted in a Lien against the Property, the Title Insurance Policy provides Lender satisfactory affirmative insurance with respect to such Lien. To

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Borrower's knowledge after due inquiry, there are no claims for payment for work, labor or materials affecting the Property which are or may become a lien prior to, or of equal priority with, the Liens created by the Loan Documents.

#### SECTION 4.30. PERSONAL PROPERTY

Borrower has paid in full for, and is the owner of, all Personal Property (other than tenants' property) used in connection with the operation of the Property, free and clear of any and all security interests, liens or encumbrances, except for Permitted Encumbrances and the Lien and security interest created by the Loan Documents.

#### SECTION 4.31. TAXES

Borrower and Borrower Principal have filed all federal, state, county, municipal, and city income, personal property and other tax returns required to have been filed by them and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Borrower nor Borrower Principal knows of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

#### SECTION 4.32. PERMITTED ENCUMBRANCES

None of the Permitted Encumbrances, individually or in the aggregate, materially interferes with the benefits of the security intended to be provided by the Loan Documents, materially and adversely affects the value of the Property, impairs the use or the operation of the Property or impairs Borrower's ability to pay its obligations in a timely manner.

#### SECTION 4.33. FEDERAL RESERVE REGULATIONS

Borrower will use the proceeds of the Loan for the purposes set forth

in Section 2.1(d) hereof and not for any illegal activity. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Legal Requirements or prohibited by the terms and conditions of this Agreement or the other Loan Documents.

#### SECTION 4.34. INVESTMENT COMPANY ACT

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

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#### SECTION 4.35. RECIPROCAL EASEMENT AGREEMENTS

(a) Neither Borrower, nor any other party is currently in default (nor has any notice been given or received with respect to an alleged or current default) under any of the terms and conditions of any REA, and any such REA remains unmodified and in full force and effect;

(b) All easements granted pursuant to any REA which were to have survived the site preparation and completion of construction (to the extent that the same has been completed), remain in full force and effect and have not been released, terminated, extinguished or discharged by agreement or otherwise;

(c) All sums due and owing by Borrower to the other parties to any REA (or by the other parties to any such REA to Borrower) pursuant to the terms of any such REA, including without limitation, all sums, charges, fees, assessments, costs, and expenses in connection with any taxes, site preparation and construction, non-shareholder contributions, and common area and other property management activities have been paid, are current, and no lien has attached on the Property (or threat thereof been made) for failure to pay any of the foregoing;

(d) The terms, conditions, covenants, uses and restrictions contained in any REA do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk placement, tenant restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions; and

(e) The terms, conditions, covenants, uses and restrictions contained in each Lease do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any REA, any other Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk placement, tenant restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions.

#### SECTION 4.36. NO CHANGE IN FACTS OR CIRCUMSTANCES; DISCLOSURE

All information submitted by Borrower or its agents to Lender and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the Loan or in satisfaction of the terms thereof and all statements of fact made by Borrower in this Agreement or in any other Loan Document, are accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance

or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that otherwise materially and adversely affects or, to the best of Borrower's knowledge, could reasonably be expected to materially and adversely affect the Property or the business operations or the financial condition of Borrower. To the best of Borrower's knowledge, Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading.

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#### SECTION 4.37. INTELLECTUAL PROPERTY

All trademarks, trade names and service marks necessary to the business of Borrower as presently conducted or as Borrower contemplates conducting its business are in good standing and, to the extent of Borrower's actual knowledge, uncontested. Borrower has not infringed, is not infringing, and has not received notice of infringement with respect to asserted trademarks, trade names and service marks of others. To Borrower's knowledge, there is no infringement by others of trademarks, trade names and service marks of Borrower.

#### SECTION 4.38. SURVEY

The Survey for the Property delivered to Lender in connection with this Agreement has been prepared in accordance with the provisions of Section 3.2(c) hereof, and to the actual knowledge of Borrower does not fail to reflect any material matter affecting the Property or the title thereto, which was required to be set forth therein pursuant to Section 3.2(c) hereof.

#### SECTION 4.39. EMBARGOED PERSON

As of the date hereof and at all times throughout the term of the Loan, including after giving effect to any transfers of interests permitted pursuant to the Loan Documents, (a) (1) none of the funds or other assets of Borrower constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government and (2) none of the funds or other assets of Borrower Principal constitute property of, or are beneficially owned, directly or indirectly by any person, entity or government owning, directly or indirectly, greater than a 10% interest in Borrower Principal, that is subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Borrower or Borrower Principal, as applicable (whether directly or indirectly), is prohibited by law or the Loan made by Lender is in violation of law ("EMBARGOED PERSON"); (b) no Embargoed Person has any interest of any nature whatsoever in Borrower or Borrower Principal, as applicable, with the result that the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower or Borrower Principal, as applicable, have been derived from any unlawful activity with the result that the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

#### SECTION 4.40. PATRIOT ACT

All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including Executive Order 13224 effective September 24, 2001 (collectively referred to in this Section only as the "PATRIOT ACT") and are incorporated into this Section. Each of Borrower and Borrower Principal hereby represents and warrants that Borrower and Borrower Principal and each and every Person affiliated with Borrower or owning directly or indirectly greater than a 10% interest in Borrower Principal or

that to Borrower's knowledge has an economic interest in Borrower, or, to Borrower's knowledge, that has or will have an interest in the transaction contemplated by this Agreement or in the Property or will participate, in any manner whatsoever, in the Loan, is: (i) not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and all modifications thereto or thereof (as used in this Section only, the "ANNEX"); (ii) in full compliance with the requirements of the Patriot Act and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (as used in this Section only, "OFAC"); (iii) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Act and available to Lender for Lender's review and inspection during normal business hours and upon reasonable prior notice; (iv) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (v) not listed as a Specially Designated Terrorist or as a "blocked" person on any lists maintained by the OFAC pursuant to the Patriot Act or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Act or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Act; (vi) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (vii) not owned or controlled by or now acting and or will in the future act for or on behalf of any person named in the Annex or any other list promulgated under the Patriot Act or any other person who has been determined to be subject to the prohibitions contained in the Patriot Act. Borrower covenants and agrees that in the event Borrower receives any notice that Borrower Principal or Borrower (or any of its beneficial owners or affiliates or participants) become listed on the Annex or any other list promulgated under the Patriot Act or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender. It shall be an Event of Default hereunder if Borrower, Borrower Principal or any other party to any Loan Document becomes listed on any list promulgated under the Patriot Act or is indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.

SECTION 4.41. INTENTIONALLY DELETED.

SECTION 4.42. SURVIVAL

Borrower agrees that, unless expressly provided otherwise, all of the representations and warranties of Borrower set forth in this Agreement and elsewhere in this Agreement and in the other Loan Documents shall survive for so long as any portion of the Debt remains owing to Lender. All representations, warranties, covenants and agreements made in this Agreement or in the other Loan Documents by Borrower shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

ARTICLE 5  
BORROWER COVENANTS

From the date hereof and until repayment of the Debt in full and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Lien of the

Mortgage (and all related obligations) in accordance with the terms of this Agreement and the other Loan Documents, Borrower hereby covenants and agrees with Lender that:

#### SECTION 5.1. EXISTENCE; COMPLIANCE WITH LEGAL REQUIREMENTS

(a) Borrower shall do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence, rights, licenses, permits and franchises and comply in all material respects with all Legal Requirements applicable to it and the Property. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the Legal Requirements affecting the Property, provided that (i) no Default or Event of Default has occurred and is continuing; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower or the Property is subject and shall not constitute a default thereunder; (iii) neither the Property, any part thereof or interest therein, any of the tenants or occupants thereof, nor Borrower shall be affected in any material adverse way as a result of such proceeding; (iv) non-compliance with the Legal Requirements shall not impose civil or criminal liability on Borrower or Lender; (v) Borrower shall have furnished the security as may be required in the proceeding or by Lender to ensure compliance by Borrower with the Legal Requirements; and (vi) Borrower shall have furnished to Lender all other items reasonably requested by Lender.

#### SECTION 5.2. MAINTENANCE AND USE OF PROPERTY

Borrower shall cause the Property to be maintained in a good and safe condition and repair. The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of Personal Property) other than in accordance with the provisions of Section 5.21 without the prior written consent of Lender. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

#### SECTION 5.3. WASTE

Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security for the Loan. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Property, regardless of the depth thereof or the method of mining or extraction thereof.

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#### SECTION 5.4. TAXES AND OTHER CHARGES

(a) Borrower shall pay all Taxes and Other Charges now or hereafter levied or assessed or imposed against the Property or any part thereof no later than ten (10) Business Days prior to the date on which such Taxes or Other Charges would be delinquent; provided, however, Borrower's obligation to directly pay Taxes shall be suspended for so long as Borrower complies with the terms and provisions of Section 9.6 hereof. Borrower shall furnish to Lender receipts (or copies of checks and transmittal letters evidencing the payment of such Taxes or Other Charges) for the payment of the Taxes and the Other Charges

prior to the date the same shall become delinquent (provided, however, that Borrower is not required to furnish such receipts for payment of Taxes in the event that such Taxes have been paid by Lender pursuant to Section 9.6 hereof). Subject to any rights of Borrower under this Agreement to contest Liens, Borrower shall not suffer and shall promptly cause to be paid and discharged any Lien or charge whatsoever which may be or become a Lien or charge against the Property, and shall promptly pay for all utility services provided to the Property, except to the extent the costs of such utility services are not payable by Borrower and are billed to Tenants at the Property.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any Taxes or Other Charges, provided that (i) no Event of Default has occurred and remains uncured; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable Legal Requirements; (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost; (iv) Borrower shall promptly upon final determination thereof pay the amount of any such Taxes or Other Charges, together with all costs, interest and penalties which may be payable in connection therewith; (v) such proceeding shall suspend the collection of such contested Taxes or Other Charges from the Property; and (vi) Borrower shall furnish such security as may be required in the proceeding, or, in the event that neither Original Borrower nor a Borrower Principal Affiliate is Borrower under the Loan, deliver to Lender such reserve deposits as may be requested by Lender, to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon (unless Borrower has paid all of the Taxes or Other Charges under protest). Lender may pay over any such cash deposit or part thereof held by Lender to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established or the Property (or part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, canceled or lost or there shall be any danger of the Lien of the Mortgage being primed by any related Lien.

#### SECTION 5.5. LITIGATION

Borrower shall give prompt written notice to Lender of any litigation or governmental proceedings pending or threatened in writing against Borrower which could reasonably be expected to materially adversely affect Borrower's condition (financial or otherwise) or business or the Property.

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#### SECTION 5.6. ACCESS TO PROPERTY

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

#### SECTION 5.7. NOTICE OF DEFAULT

Borrower shall promptly advise Lender of any material adverse change in the condition (financial or otherwise) of Borrower, any Borrower Principal or the Property or of the occurrence of any Default or Event of Default of which Borrower has knowledge.

#### SECTION 5.8. COOPERATE IN LEGAL PROCEEDINGS

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

proceedings.

SECTION 5.9. PERFORMANCE BY BORROWER

Borrower shall in a timely manner observe, perform and fulfill each and every covenant, term and provision to be observed and performed by Borrower under this Agreement and the other Loan Documents and any other agreement or instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

SECTION 5.10. AWARDS; INSURANCE PROCEEDS

Borrower shall cooperate with Lender in obtaining for Lender the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with the Property, and Lender shall be reimbursed for any expenses incurred in connection therewith (including reasonable, actual attorneys' fees and disbursements, and the payment by Borrower of the expense of an appraisal on behalf of Lender in case of a Casualty or Condemnation affecting the Property or any part thereof) out of such Awards or Insurance Proceeds.

SECTION 5.11. FINANCIAL REPORTING

(a) Borrower and Borrower Principal shall keep adequate books and records of account in accordance with methods acceptable to Lender in its reasonable discretion, consistently applied and shall furnish to Lender:

(i) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual certified rent rolls signed and dated by Borrower in the form prepared by Borrower in the ordinary course of the operation of its business and providing at least as much detail as contained in the rent rolls delivered to Lender in connection with the closing of the Loan, within twenty (20) days after the end of each calendar month, forty-five (45) days after the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable;

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(ii) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual operating statements of the Property, prepared and certified by Borrower in the form used by Borrower in the ordinary course of its operations, detailing the revenues received, the expenses incurred and the net operating income before and after debt service (principal and interest) and major capital improvements for the period of calculation and containing appropriate year-to-date information, within twenty (20) days after the end of each calendar month, forty-five (45) days after the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable; and

(iii) annually, with respect to MHC, financial statements (on a consolidated basis with MHCOP) prepared and audited by an Acceptable Accountant, within ninety (90) days of the close of each fiscal year of MHC and MHCOP, as applicable.

(b) Intentionally deleted.

(c) Borrower shall comply with the following:

(i) Intentionally deleted.

(ii) If requested by Lender, Borrower shall provide Lender, promptly upon request, with summaries of the financial statements referenced in Section 5.11(c)(ii)(A)-(D) below if, at the time a Disclosure Document is being prepared for a Securitization, it is expected that the principal amount of the Loan and any Affiliated



Loans at the time of Securitization may, or if the principal amount of the Loan and any Affiliated Loans at any time during which the Loan and any Affiliated Loans are included in a Securitization does, equal or exceed 10% of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in a Securitization. Such summaries shall meet the requirements for "summarized financial information," as defined in Section 210.1-02(bb) of Regulation S-X, or such other requirements as may be reasonably determined to be necessary or appropriate by Lender.

(A) A balance sheet with respect to the Property for the two most recent fiscal years, meeting the requirements of Section 210.3-01 of Regulation S-X of the Securities Act and statements of income and statements of cash flows with respect to the Property for the three most recent fiscal years, meeting the requirements of Section 210.3-02 of Regulation S-X, and, to the extent that such balance sheet is more than 135 days old as of the date of the document in which such financial statements are included, interim financial statements of the Property meeting the requirements of Section 210.3-01 and 210.3-02 of Regulation S-X (all of such financial statements, collectively, the "Standard Statements"); provided, however, that with respect to a Property (other than properties that are hotels, nursing homes, or other properties that would be deemed to constitute a business and not real estate under Regulation S-X or other legal requirements) that has been acquired by Borrower from an unaffiliated third party (such Property, "Acquired Property"), as to which the other conditions set forth in Section 210.3-14 of Regulation S-X for provision of financial statements

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in accordance with such Section have been met, in lieu of the Standard Statements otherwise required by this section, Borrower shall instead provide the financial statements required by such Section 210.3-14 of Regulation S-X ("Acquired Property Statements").

(B) Not later than 30 days after the end of each fiscal quarter following the date hereof, a balance sheet of the Property as of the end of such fiscal quarter, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for the period commencing following the last day of the most recent fiscal year and ending on the date of such balance sheet and for the corresponding period of the most recent fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(C) Not later than 75 days after the end of each fiscal year following the date hereof, a balance sheet of the Property as of the end of such fiscal year, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for such fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(D) Within ten Business Days after notice from Lender in connection with the Securitization of this Loan, such additional financial statements, such that, as of the date (each an "Offering Document Date") of each Disclosure Document, Borrower shall have provided Lender with all financial statements as described in subsection (f)(i) above; provided that the fiscal year and interim periods for which such financial statements shall be provided shall be

determined as of such Offering Document Date.

(iii) All financial statements provided by Borrower hereunder pursuant to Section 5.11(c)(ii) hereof shall be prepared in accordance with GAAP, and shall meet the requirements of Regulation S-X and other applicable legal requirements. All financial statements (audited or unaudited) provided by Borrower under this Section 5.11 shall be certified by an authorized officer or administrative member of Borrower, which certification shall state that such financial statements meet the requirements set forth in the first sentence of this Section 5.11(c)(iii).

(iv) If requested by Lender, Borrower shall provide Lender, promptly upon request, with any other or additional financial statements, or financial, statistical or operating information, as Lender shall determine to be required pursuant to Regulation S-X or any amendment, modification or replacement thereto or other legal requirements in connection with any Disclosure Document or any filing under or pursuant to the Exchange Act in connection with or relating to a Securitization (hereinafter an "Exchange Act Filing") or as shall otherwise be reasonably requested by Lender.

(v) In the event Lender determines, in connection with a Securitization, that the financial statements required in order to comply with Regulation S-X or other legal requirements are other than as provided herein, then notwithstanding the provisions of Section 5.11(c) hereof, Lender may request, and Borrower shall promptly provide, such

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combination of Acquired Property Statement and/or Standard Statements or such other financial statements as Lender determines to be necessary or appropriate for such compliance.

(vi) Any reports, statements or other information required to be delivered under this Agreement shall be delivered in paper form and in the event that Lender requires financial statements in connection with subsection (c) above because the Loan when combined with the principal amount of any Affiliated Loans equal or exceed 20% of the aggregate principal amount of all mortgage loans included in a Securitization (defined below), Borrower shall deliver such reports, statements and other information (A) on a diskette, and (B) if requested by Lender and within the capabilities of Borrower's data systems without change or modification thereto, in electronic form and prepared using Microsoft Word for Windows or WordPerfect for Windows files (which files may be prepared using a spreadsheet program and saved as word processing files).

(d) Borrower and Borrower Principal shall furnish Lender with such other additional financial or management information (including state and federal tax returns) as may, from time to time, be reasonably required by Lender in form and substance satisfactory to Lender (including, without limitation, any financial reports required to be delivered by any Tenant or any guarantor of any Lease pursuant to the terms of such Lease), and shall furnish to Lender and its agents convenient facilities for the examination and audit of any such books and records.

(e) All items requiring the certification of Borrower shall, except where Borrower is an individual, require a certificate executed by the general partner, managing member or authorized/senior officer of Borrower, as applicable (and the same rules shall apply to any sole shareholder, general partner or managing member which is not an individual).

(f) Notwithstanding anything to the contrary contained herein, in no event shall Borrower be required to comply with the financial reporting

requirements of Regulation S-X that would be applicable solely as a result of the principal amount of the Loan and any Affiliated Loans (at the time of Securitization) equaling or exceeding 20% of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in a Securitization.

#### SECTION 5.12. ESTOPPEL STATEMENT

(a) After request by Lender, Borrower shall within fifteen (15) Business Days furnish Lender with a statement, duly acknowledged and certified, setting forth (i) the amount of the original principal amount of the Note, (ii) the rate of interest on the Note, (iii) the unpaid principal amount of the Note, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) that the Note, this Agreement, the Mortgage and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.

(b) Borrower shall use its reasonable efforts to deliver to Lender, promptly upon request, but subject to the terms of the applicable Major Leases that are either Ground Leases or Operating Leases, duly executed estoppel certificates from any one or more Tenants thereunder

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as required by Lender (but no more frequently than once every twelve (12) months provided no Event of Default has occurred and is continuing) attesting to such facts regarding the related Lease as Lender may reasonably require, including, but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, except as security, and that the Tenant claims no defense or offset against the full and timely performance of its obligations under the Lease.

#### SECTION 5.13. LEASING MATTERS.

(a) Except as otherwise consented to by Lender in writing, all Leases shall be written on the standard form of lease which shall have been (i) with respect to pad Leases, delivered to Lender in connection with the closing of the Loan and (ii) with respect to Operating Leases or Ground Leases, if any, approved by Lender, provided however that Lender acknowledges that to the extent any portion of the Property consists of a recreational vehicle resort, Borrower shall not be required to enter into written Leases with any occupant or tenant of such portion of the Property and such tenants and/or occupants of such recreational vehicle resorts shall be deemed month to month tenants or licensees of Borrower. So long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Borrower may modify its standard form of pad lease in accordance with sound business practices and Legal Requirements, provided that the form of such Lease contains covenants and conditions that are consistent with those contained in comparable leases in the applicable local market. Notwithstanding the foregoing, in the event that the majority of owners, managers and/or operators of comparable recreational vehicle resorts in the applicable local market enter into written Leases with the occupants of recreational vehicle resorts, Borrower shall be required to enter into written Leases with respect to such occupants, and the form of such lease shall contain terms and conditions that are consistent with those of Leases of comparable properties in the applicable market or sub-market. Upon request, Borrower (1) shall furnish Lender with executed copies of all Major Leases and (2) shall make available to Lender at Borrower's offices (upon reasonable notice to Borrower), executed copies of all other Leases. No material changes may be made to the Lender-approved standard form of Operating Lease and Ground Lease, if applicable, without the prior written consent of Lender. In addition, all renewals of Leases and all proposed leases shall provide for rental rates and terms comparable to existing local market rates and terms and, except with

respect to one pad at the Property used for on-site community managers (or other employees of Manager), shall be arm's-length transactions with bona fide, independent third party tenants. All proposed Major Leases and renewals of existing Major Leases shall be subject to the prior approval of Lender and its counsel, at Borrower's expense. All Leases shall provide that they are subordinate to the Mortgage and that the tenant agrees to attorn to Lender.

(b) Borrower (i) shall observe and perform all the obligations imposed upon the landlord under the Leases and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (ii) shall enforce all of the material terms, covenants and conditions contained in the Leases upon the part of the Tenant thereunder to be observed or performed, short of termination thereof; provided however, with respect to pad leases, a pad Lease may be terminated in the event of a default by the tenant thereunder; (iii) with respect to any Leases (other than Leases relating to mobile home park pads or recreational vehicle resort pads), shall not collect any of the Rents more than one (1) month in advance; provided, however,

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that in no event shall Borrower collect any Rents under Leases (or any other applicable occupancy agreements (written or otherwise)) relating to mobile home park pads or recreational vehicle resort pads more than one (1) year in advance; (iv) shall not execute any other assignment of the landlord's interest in the Leases or the Rents; and (v) shall not consent to any assignment of or subletting under the Major Leases not in accordance with their terms, without the prior written consent of Lender.

(c) Notwithstanding the provisions of subsection (a) above, renewals of existing commercial Leases and proposed Leases for commercial space shall not be subject to the prior approval of Lender, provided all of the following conditions are satisfied: (i) the rental income pursuant to the renewal or proposed Lease is not more than five (5%) percent of the total rental income for the Property, (ii) the renewal or proposed Lease has a base term of less than six (6) years including options to renew, (iii) no rent, credits, free rents or concessions have been granted under the renewal or proposed Lease (except to the extent consistent with current market conditions), (iv) the renewal or proposed Lease is subject and subordinate to the Mortgage and the tenant thereunder shall have agreed to attorn to Lender, (v) the renewal or proposed Lease is on the standard form of lease approved by Lender, (vi) the renewal or proposed Lease does not contain any option, offer, right of first refusal, or other similar right to acquire all or any portion of the Property, and (vii) the renewal or proposed Lease provides for rental rates and terms comparable to existing market rates and terms and is an arm's-length transaction with a bona fide, independent third party tenant. Borrower shall deliver to Lender copies of all Leases which are entered into pursuant to the preceding sentence together with Borrower's certification that it has satisfied all of the conditions of the preceding sentence within thirty (30) days after the execution of the Lease.

#### SECTION 5.14. PROPERTY MANAGEMENT

(a) Borrower shall (i) promptly perform and observe all of the covenants required to be performed and observed by it under the Management Agreement and do all things necessary to preserve and to keep unimpaired its material rights thereunder; (ii) promptly notify Lender of any material default under the Management Agreement of which it is aware; (iii) promptly deliver to Lender a copy of any notice of default or other material notice received by Borrower under the Management Agreement; (iv) promptly give notice to Lender of any notice or information that Borrower receives which indicates that Manager is terminating the Management Agreement or that Manager is otherwise discontinuing its management of the Property; and (v) promptly enforce the performance and observance of all of the covenants required to be performed and observed by Manager under the Management Agreement.

(b) If at any time, (i) an Event of Default under Section 11.1(a)

hereof has occurred and is continuing; or (ii) Manager is not an Affiliated Manager and either (A) a default has occurred and is continuing under the Management Agreement or (B) Manager has become insolvent or a debtor in a bankruptcy proceeding, Borrower shall, at the request of Lender, terminate the Management Agreement upon thirty (30) days prior notice to Manager and replace Manager with a Qualified Manager approved by Lender on terms and conditions satisfactory to Lender, it being understood and agreed that the management fee for such replacement manager shall not exceed then prevailing market rates.

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(c) Intentionally deleted.

(d) Any entity Controlled by MHC or MHCOP shall be deemed Qualified Manager. Borrower shall not, without the prior written consent of Lender (which consent shall not be unreasonably withheld, conditioned or delayed): (i) surrender, terminate or cancel the Management Agreement or otherwise replace Manager or enter into any other management agreement with respect to the Property; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; or (iv) otherwise modify, change, supplement, alter or amend, or waive or release any of its rights and remedies under, the Management Agreement in any material respect, provided, however, that if Manager is Controlled by MHC or MHCOP, then Borrower shall have the right to enter into amendments to the Management Agreement (1) which are consistent with good operating practices, (2) which do not increase any of the fees or other similar charges payable by Borrower thereunder and (3) which do not otherwise materially increase any of Borrower's obligations thereunder, and Borrower shall have the right to enter into a new management agreement with another entity Controlled by MHC or MHCOP on substantially the same terms and conditions as those set forth in the Management Agreement approved by Lender in connection with the closing of the Loan and otherwise in accordance with the terms permitted hereunder, without the consent of Lender. In the event that Borrower replaces Manager at any time during the term of Loan pursuant to this subsection, such Manager shall be a Qualified Manager.

#### SECTION 5.15. LIENS

Borrower shall not, without the prior written consent of Lender, create, incur, assume or suffer to exist any Lien on any portion of the Property or permit any such action to be taken, except Permitted Encumbrances.

#### SECTION 5.16. DEBT CANCELLATION

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

#### SECTION 5.17. ZONING

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

#### SECTION 5.18. ERISA

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

(b) Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan, as requested by Lender in its sole discretion, that (i) Borrower is not and does not maintain an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(3) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) 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);

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

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

#### SECTION 5.19. NO JOINT ASSESSMENT

Borrower shall not suffer, permit or initiate the joint assessment of the Property with (a) any other real property constituting a tax lot separate from the Property, or (b) any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the Lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to the Property.

#### SECTION 5.20. RECIPROCAL EASEMENT AGREEMENTS

Borrower shall not enter into, terminate or modify (in any material respects) any REA without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Borrower shall enforce, comply with, and cause each of the parties to the REA to comply with all of the material economic terms and conditions contained in the REA. Lender acknowledges that it would be unreasonable to withhold its consent to Borrower entering into an REA with an Affiliate owning property adjacent to the Property with respect to the use of certain amenities and facilities at the Property, provided that (A) any such REA would not (i) have a material adverse affect on the Property or the Borrower, (ii) impose any material obligations on the Borrower, (B) the terms of any such REA provide that Borrower shall be paid fair market value for the use of such amenities and/or facilities under any such REA and (C) sufficient utilities, facilities and other amenities shall continue to be available to and serve the Property.

#### SECTION 5.21. ALTERATIONS

Lender's prior approval shall be required in connection with any alterations to any Improvements, exclusive of alterations to tenant spaces required under any Lease, (a) that may have a material adverse effect on the Property or (b) that, together with any other alterations undertaken at the same time (including any related alterations, improvements or replacements), are reasonably anticipated to have a cost in excess of the Alteration Threshold. Notwithstanding

the provisions of subsection (b) above and provided that either the Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Lender's prior approval shall not be required in connection with any alterations in excess of the Alteration Threshold, provided that Lender shall have received (a) a current Appraisal of the Property (or a letter update to the Appraisal delivered in connection with the closing of the Loan), (b) a certificate from Borrower and (c) such other evidence that would be satisfactory to a prudent institutional mortgage loan lender each indicating that such alterations will not impair (as security for the Loan) the fair market value of the real estate collateral portion of the Property, as determined by a prudent institutional secondary market lender. If the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements shall at any time exceed the Alteration Threshold and regardless of whether Lender's consent is required in connection with any such alterations, Borrower shall promptly deliver to Lender as security for the payment of such amounts and as additional security for Borrower's obligations under the Loan Documents any of the following: (i) cash, (ii) direct non-callable obligations of the United States of America or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, to the extent acceptable to the applicable Rating Agencies, (iii) other securities acceptable to Lender and the Rating Agencies, or (iv) a completion bond, provided that such completion bond is acceptable to the Lender and the Rating Agencies. Such security shall be in an amount equal to the excess of the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements over the Alteration Threshold.

#### SECTION 5.22. TAX CREDITS

Borrower shall not claim a low income housing credit for the Property under Section 42 of the Internal Revenue Code without Lender's prior written consent.

#### SECTION 5.23. INTENTIONALLY DELETED.

### ARTICLE 6 ENTITY COVENANTS

#### SECTION 6.1. SINGLE PURPOSE ENTITY/SEPARATENESS

Until the Debt has been paid in full, Borrower represents, warrants and covenants as follows:

- (a) Borrower has not and will not:
  - (i) engage in any business or activity other than the ownership, operation and maintenance of the Property, and activities incidental thereto;
  - (ii) acquire or own any assets other than (A) the Property, and (B) such incidental Personal Property as may be necessary for the operation of the Property;
  - (iii) merge into or consolidate with any Person, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;
  - (iv) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the applicable Legal Requirements of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;

(v) own any subsidiary, or make any investment in, any Person;

(vi) commingle its assets with the assets of any other Person;

(vii) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Debt, (B) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (1) unsecured, (2) not evidenced by a note, (3) on commercially reasonable terms and conditions, and (4) due not more than sixty (60) days past the date incurred and paid on or prior to such date, and/or (C) financing leases and purchase money indebtedness incurred in the ordinary course of business relating to Personal Property on commercially reasonable terms and conditions; provided however, the aggregate amount of the indebtedness described in (B) and (C) shall not exceed at any time three percent (3%) of the outstanding principal amount of the Note;

(viii) fail to 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; except that Borrower's financial position, assets, liabilities, net worth and operating results may be included in the consolidated financial statements of an Affiliate, provided that such consolidated financial statements indicate that Borrower is a separate legal entity and that it maintains separate books and records;

(ix) enter into any contract or agreement with any general partner, member, shareholder, principal, guarantor of the obligations of Borrower, or any Affiliate of the foregoing, except upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(x) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xi) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts 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;

(xii) make any loans or advances to any Person;

(xiii) fail to file its own tax returns or files a consolidated federal income tax return with any Person (unless prohibited or required, as the case may be, by applicable Legal Requirements);

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(xiv) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(xv) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, provided, however, that any such failure to maintain adequate capital will not constitute a breach of this covenant if cash flow from the



Property is insufficient for Borrower to maintain adequate capital as set forth above;;

(xvi) if it is a partnership or limited liability company, without the unanimous written consent of all of its partners or members, as applicable, and the written consent of 100% of the managers of Borrower (if any), including, without limitation, each Independent Director, (a) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Creditors Rights Laws, (b) seek or consent to the appointment of a receiver, liquidator or any similar official, (c) take any action that might cause such entity to become insolvent, or (d) make an assignment for the benefit of creditors;

(xvii) fail to allocate shared expenses (including, without limitation, shared office space and services performed by an employee of an Affiliate) among the Persons sharing such expenses and to use separate stationery, invoices and checks;

(xviii) make any distributions so as to render Borrower insolvent or cause Borrower to become unable to pay its own liabilities (including, without limitation, the salaries of its own employees, if any) from its own funds;

(xix) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable; or

(xx) violate or cause to be violated the assumptions made with respect to Borrower and its principals in any opinion letter pertaining to substantive consolidation delivered to Lender in connection with the Loan; or

(xxi) If Borrower is a partnership or limited liability company, each general partner in the case of a general partnership, each general partner in the case of a limited partnership, or the managing member in the case of a limited liability company (each an "SPE COMPONENT ENTITY") of Borrower, as applicable, shall be a corporation or a single member Delaware limited liability company whose sole asset is its interest in Borrower. Each SPE Component Entity (i) will at all times comply with each of the covenants, terms and provisions contained in Section 6.1(a)(iii) - (vi) and (viii) - (xxi), as if such representation, warranty or covenant was made directly by such SPE Component Entity; (ii) will not engage in any business or activity other than owning an interest in Borrower; (iii) will not acquire or own any assets other than its partnership, membership, or other equity interest in Borrower; (iv) will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation); (v) will at all times when the Loan is outstanding own at least a one hundredth of one percent (.01%) general partnership or

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managing membership interest in Borrower; and (vi) will cause Borrower to comply with the provisions of this Section 6.1 and Section 6.4. Prior to the withdrawal or the disassociation of any SPE Component Entity from Borrower, Borrower shall immediately appoint a new general partner or managing member whose articles of incorporation or limited liability company operating agreement, as applicable, are substantially similar to those of such SPE Component Entity and, if an opinion letter pertaining to substantive consolidation was required at closing, deliver a new opinion letter acceptable to Lender and the Rating Agencies with respect to the new SPE Component Entity and its equity owners. Notwithstanding the foregoing, to the extent Borrower is a single member Delaware limited liability company, so long as Borrower maintains such formation status, no SPE Component Entity shall be required.

(b) In the event Borrower is a single member Delaware limited liability company, the limited liability company agreement of Borrower (the "LLC AGREEMENT") shall provide that (i) upon the occurrence of any event that causes the sole member of Borrower ("MEMBER") to cease to be the member of Borrower (other than (A) upon an assignment by Member of all of its limited liability company interest in Borrower and the admission of the transferee in accordance with the Loan Documents and the LLC Agreement, or (B) the resignation of Member and the admission of an additional member of Borrower in accordance with the terms of the Loan Documents and the LLC Agreement), any person acting as Independent Director of Borrower shall, without any action of any other Person and simultaneously with the Member ceasing to be the member of Borrower, automatically be admitted to Borrower ("SPECIAL MEMBER") and shall continue Borrower without dissolution and (ii) Special Member may not resign from Borrower or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to Borrower as Special Member in accordance with requirements of Delaware law and (B) such successor Special Member has also accepted its appointment as an Independent Director. The LLC Agreement shall further provide that (i) Special Member shall automatically cease to be a member of Borrower upon the admission to Borrower of a substitute Member, (ii) Special Member shall be a member of Borrower that has no interest in the profits, losses and capital of Borrower and has no right to receive any distributions of Borrower assets, (iii) pursuant to Section 18-301 of the Delaware Limited Liability Company Act (the "ACT"), Special Member shall not be required to make any capital contributions to Borrower and shall not receive a limited liability company interest in Borrower, (iv) Special Member, in its capacity as Special Member, may not bind Borrower and (v) except as required by any mandatory provision of the Act, Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, Borrower, including, without limitation, the merger, consolidation or conversion of Borrower; provided, however, such prohibition shall not limit the obligations of Special Member, in its capacity as Independent Director, to vote on such matters required by the Loan Documents or the LLC Agreement. In order to implement the admission to Borrower of Special Member, Special Member shall execute a counterpart to the LLC Agreement. Prior to its admission to Borrower as Special Member, Special Member shall not be a member of Borrower.

Upon the occurrence of any event that causes the Member to cease to be a member of Borrower, to the fullest extent permitted by law, the personal representative of Member shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of Member in Borrower, agree in writing (i) to continue Borrower and (ii) to the

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admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Borrower, effective as of the occurrence of the event that terminated the continued membership of Member of Borrower in Borrower. Any action initiated by or brought against Member or Special Member under any Creditors Rights Laws shall not cause Member or Special Member to cease to be a member of Borrower and upon the occurrence of such an event, the business of Borrower shall continue without dissolution. The LLC Agreement shall provide that each of Member and Special Member waives any right it might have to agree in writing to dissolve Borrower upon the occurrence of any action initiated by or brought against Member or Special Member under any Creditors Rights Laws, or the occurrence of an event that causes Member or Special Member to cease to be a member of Borrower.

#### SECTION 6.2. CHANGE OF NAME, IDENTITY OR STRUCTURE

Borrower shall not change or permit to be changed (a) Borrower's name, (b) Borrower's identity (including its trade name or names), (c) Borrower's principal place of business set forth on the first page of this Agreement, (d) the corporate, partnership or other organizational structure of Borrower, each SPE Component Entity (if any), or Borrower Principal, (e) Borrower's state of

organization, or (f) Borrower's organizational identification number, without in each case notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender. In addition, Borrower shall not change or permit to be changed any organizational documents of Borrower or any SPE Component Entity (if any) if such change would adversely impact the covenants set forth in Section 6.1 and Section 6.4 hereof. Borrower authorizes Lender to file any financing statement or financing statement amendment required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property. If Borrower does not now have an organizational identification number and later obtains one, or if the organizational identification number assigned to Borrower subsequently changes, Borrower shall promptly notify Lender of such organizational identification number or change.

#### SECTION 6.3. BUSINESS AND OPERATIONS

Borrower will qualify to do business and will remain in good standing under the laws of the State as and to the extent the same are required for the ownership, maintenance, management and operation of the Property.

#### SECTION 6.4. INDEPENDENT DIRECTOR

(a) The organizational documents of Borrower or each SPE Component Entity (if any), as applicable, shall provide that at all times there shall be, and Borrower shall cause there to be, at least one manager (each an "INDEPENDENT DIRECTOR") of Borrower or such SPE Component Entity, as applicable, reasonably satisfactory to Lender each of whom are not at the time of such individual's initial appointment, and shall not have been at any time during the preceding five (5) years, and shall not be at any time while serving as a director of Borrower or

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such SPE Component Entity, as applicable, either (i) a shareholder (or other equity owner) of, or an officer, director, partner, manager, member (other than as a Special Member in the case of single member Delaware limited liability companies), employee, attorney or counsel of, Borrower, such SPE Component Entity or any of their respective shareholders, partners, members, subsidiaries or affiliates; (ii) a customer or creditor of, or supplier to, Borrower or any of its respective shareholders, partners, members, subsidiaries or affiliates who derives any of its purchases or revenue from its activities with Borrower or such SPE Component Entity or any Affiliate of any of them; (iii) a Person who Controls or is under common Control with any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer; or (iv) a member of the immediate family of any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer.

(b) The organizational documents of Borrower or each SPE Component Entity (if any), as the case may be, shall provide that the manager of Borrower or such SPE Component Entity, as applicable, shall not take any action which, under the terms of any articles of organization or operating agreement, as applicable, requires an unanimous vote of the members and manager of Borrower or such SPE Component Entity, as the case may be, unless at the time of such action there shall be at least one manager who is an Independent Director. Borrower or such SPE Component Entity, as applicable, will not, without the unanimous written consent of its members and managers, including each Independent Director, on behalf of itself or Borrower, (i) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable Creditors Rights Laws; (ii) seek or consent to the appointment of a receiver, liquidator or any similar official; (iii) take any action that might

cause such entity to become insolvent; or (iv) make an assignment for the benefit of creditors.

ARTICLE 7  
NO SALE OR ENCUMBRANCE

SECTION 7.1. TRANSFER DEFINITIONS

For purposes of this Article 7 an "AFFILIATED MANAGER" shall mean any managing agent in which Borrower, Borrower Principal, any SPE Component Entity (if any) or any affiliate of such entities has, directly or indirectly, any legal, beneficial or economic interest; "CONTROL" shall mean the power to direct the management and policies of a Restricted Party, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise; "RESTRICTED PARTY" shall mean Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager, or any shareholder, partner, member or non-member manager, or any direct or indirect legal or beneficial owner of Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager or any non-member manager; and a "SALE OR PLEDGE" shall mean a voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, grant of any options with respect to, or any other transfer or disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest.

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SECTION 7.2. NO SALE/ENCUMBRANCE

(a) Borrower shall not cause or permit a Sale or Pledge of the Property or any part thereof or any legal or beneficial interest therein nor permit a Sale or Pledge of an interest in any Restricted Party (in each case, a "PROHIBITED TRANSFER"), other than pursuant to Leases to Tenants in accordance with the provisions of Section 5.13, without the prior written consent of Lender.

(b) A Prohibited Transfer shall include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) except to the extent permitted pursuant to Section 7.7 hereof, an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (iii) if a Restricted Party is a corporation, any merger, consolidation or Sale or Pledge of such corporation's stock or the creation or issuance of new stock in one or a series of transactions; (iv) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Sale or Pledge of the partnership interest of any general or limited partner or any profits or proceeds relating to such partnership interests or the creation or issuance of new partnership interests; (v) if a Restricted Party is a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Sale or Pledge of the membership interest of any member or any profits or proceeds relating to such membership interest; or (vi) if a Restricted Party is a trust or nominee trust, any merger, consolidation or the Sale or Pledge of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests.

SECTION 7.3. PERMITTED TRANSFERS

(a) Notwithstanding the provisions of Section 7.2, the following transfers shall not be deemed to be a Prohibited Transfer: (i) a transfer by devise or descent or by operation of law upon the death of a member, partner or shareholder of a Restricted Party; (ii) the Sale or Pledge, in one or a series of transactions, of not more than forty-nine percent (49%) in the aggregate of the stock, limited partnership interests or non-managing membership interests (as the case may be) in Borrower; provided, however, no such transfers shall result in a change in Control in the Restricted Party or change in control of the Property, and as a condition to each such transfer, Lender shall receive not less than thirty (30) days prior written notice of such proposed transfer or (iii) the sale, transfer or issuance of stock in MHC provided that MHC is listed on the New York Stock Exchange or such other nationally recognized stock exchange. Notwithstanding the foregoing, any transfer that results in any Person owning in excess of forty-nine percent (49%) of the ownership interest in a Restricted Party shall comply with the requirements of Section 7.4 hereof, provided however, that with respect to transfers provided for in subsection (a)(iii) hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any such transfers.

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(b) In addition to the foregoing and supplementing subsection (a) above, Lender's prior written consent shall not be required with respect to (i) direct or indirect transfers of interests in Borrower among MHC, MHCOP and their Affiliates, (ii) transfers of limited partnership interests in MHCOP, provided that MHC or an MHC Subsidiary remains the controlling general partner of MHCOP, (iii) the merger or consolidation of MHC or MHCOP without regard to whether MHC or MHCOP, as applicable, is the surviving entity or (iv) MHC's contribution of ownership interests in MHCOP to a MHC Subsidiary, provided that with respect to the transfers set forth in clauses (i), (ii), (iii) and (iv) above, the Property shall continue to be managed by Manager or a Qualified Manager and Borrower and any SPE Component Entity shall continue to comply with Article 6 hereof. Notwithstanding the requirements set forth in Section 7.4 hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any transfers permitted under this subsection (b)(i), (iii) and (iv). "MHC SUBSIDIARY" means an entity (A) in which MHC directly owns at least a ninety-five percent (95%) interest and (B) that is under the Control of MHC.

#### SECTION 7.4. LENDER'S RIGHTS

Lender reserves the right to condition the consent to a Prohibited Transfer requested hereunder upon (a) a modification of the terms hereof and an assumption of the Note and the other Loan Documents as so modified by the proposed Prohibited Transfer, (b) receipt of payment of a transfer fee equal to one percent (1%) of the outstanding principal balance of the Loan and all of Lender's expenses incurred in connection with such Prohibited Transfer, (c) receipt of written confirmation from the Rating Agencies that the Prohibited Transfer will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to be assigned in connection with a Securitization, (d) the proposed transferee's continued compliance with the covenants set forth in this Agreement (including, without limitation, the covenants in Article 6) and the other Loan Documents, (e) a new manager for the Property and a new management agreement satisfactory to Lender, and (f) the satisfaction of such other conditions and/or legal opinions as Lender shall determine in its sole discretion to be in the interest of Lender. All expenses incurred by Lender shall be payable by Borrower whether or not Lender consents to the Prohibited Transfer. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Prohibited Transfer made without Lender's consent. This provision shall apply to each and every Prohibited Transfer, whether or not Lender has consented to any previous Prohibited Transfer. Notwithstanding anything to the contrary contained in this Section 7.4, in the event a substantive non-consolidation opinion was delivered to Lender and the Rating Agencies in connection with the

closing of the Loan, and if any Sale or Pledge permitted under this Article 7 results in any Person and its Affiliates owning in excess of forty-nine percent (49%) of the ownership interests in a Restricted Party, Borrower shall, prior to such transfer, and in addition to any other requirement for Lender consent contained herein, deliver a revised substantive non-consolidation opinion to Lender reflecting such Prohibited Transfer, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

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#### SECTION 7.5. ASSUMPTION

Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer of the Property in its entirety to, and the related assumption of the Loan by, any Person (a "TRANSFeree") and Lender shall release Borrower and Borrower Principal from their obligations under the Loan (to the extent such obligations arise from events occurring after the date of the assumption), provided that each of the following terms and conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer not less than sixty (60) days before the date on which such transfer is scheduled to close and, concurrently therewith, all such information concerning the proposed Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000 (which fee shall be credited against the assumption fee payable in connection with such assumption). Lender shall have the right to approve or disapprove the proposed transfer based on its then current underwriting and credit requirements for similar loans secured by similar properties which loans are sold in the secondary market, such approval not to be unreasonably withheld. In determining whether to give or withhold its approval of the proposed transfer, Lender shall consider the experience and track record of Transferee and its principals in owning and operating facilities similar to the Property, the financial strength of Transferee and its principals, the general business standing of Transferee and its principals and Transferee's and its principals' relationships and experience with contractors, vendors, tenants, lenders and other business entities; provided, however, that, notwithstanding Lender's agreement to consider the foregoing factors in determining whether to give or withhold such approval, such approval shall be given or withheld based on what Lender determines to be commercially reasonable and, if given, may be given subject to such conditions as Lender may deem reasonably appropriate;

(c) Borrower shall have paid to Lender, concurrently with the closing of such transfer, (i) a non-refundable assumption fee in an amount equal to one percent (1.0%) of the then outstanding principal balance of the Note (subject to credit for any previously paid non-refundable processing fees), and (ii) all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer;

(d) Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer, Transferee and its constituent partners, members or shareholders as Lender may require, shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate said assumption;

(e) Borrower and Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Property, as applicable, is vested in Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(g) Transferee shall have furnished to Lender, if Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Transferee and of the entities, if any, which are partners or members of Transferee. Transferee and such constituent partners, members or shareholders of Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(h) Transferee shall assume the obligations of Borrower under any Management Agreement or provide a new management agreement with a new manager which meets with the requirements of Section 5.14 hereof and assign to Lender as additional security such new management agreement;

(i) Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Transferee's formation documents provide for the matters described in subparagraph (g) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Transferee in accordance with their terms, (C) that Transferee and any entity which is a controlling stockholder, member or general partner of Transferee, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

(j) if required by Lender, Lender shall have received confirmation in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(k) Borrower's obligations under the contract of sale pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.5; and

(l) in the event a substantive non-consolidation opinion was delivered to Lender in connection with the closing of the Loan, Transferee shall, prior to such transfer, deliver a new or updated substantive non-consolidation opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

A consent by Lender with respect to a transfer of the Property in its entirety to, and the related assumption of the Loan by, a Transferee pursuant to this Section 7.5 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the Property. Notwithstanding anything to the contrary contained in this Section 7.5, prior to a Securitization

Lender's consent to any transfer of the Property and assumption of the Loan pursuant to this Section 7.5 shall not be required if the consideration to be paid to Borrower by the proposed Transferee is less than the appraised value of the Property as determined by Lender.

SECTION 7.6. INTENTIONALLY DELETED.

SECTION 7.7. ASSUMPTIONS IN CONNECTION WITH CERTAIN TRANSFERS TO AFFILIATES.

Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer (by deed or ground lease for nominal consideration), of a portion of the Property (the "AFFILIATE TRANSFER PORTION OF THE PROPERTY") to, and the related assumption of the Loan by, an Affiliate of Borrower (i) in which Borrower Principal owns, directly or indirectly, at least a 70% ownership interest or (ii) in which MHCOP owns, directly or indirectly, at least a 99% ownership interest (an "AFFILIATE TRANSFEREE") such Affiliate Transferee to be a co-obligor and co-mortgagee under the Loan and jointly and severally obligated thereunder, provided that, among other things, each of the following conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer and assumption not less than sixty (60) days before the date on which such transfer and assumption is scheduled to close and, concurrently therewith, all such information concerning the proposed Affiliate Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000;

(c) Borrower shall have paid to Lender all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer and assumption;

(d) Affiliate Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer and assumption, Affiliate Transferee shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate such transfer and assumption;

(e) Borrower and Affiliate Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new and/or amended security instruments, financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Affiliate Transferee shall have furnished to Lender, if Affiliate Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Affiliate Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Affiliate Transferee and of the entities, if any, which are partners or members of Affiliate Transferee. Affiliate Transferee and such

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constituent partners, members or shareholders of Affiliate Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(g) Affiliate Transferee shall (i) assume the obligations of Borrower under any Management Agreement as they relate to the Affiliate Transfer Portion of the Property, provided, however, that in the event the Affiliate Transfer Portion of the Property is operated solely as a sewage treatment and/or water treatment facility and operated solely by Affiliate Transferee (and Manager does not perform any services with respect to the Affiliate Transfer Portion of the Property), Affiliate Transferee shall not be required to assume the obligations of Borrower under the Management Agreement, and (ii) if applicable, execute an assignment to Lender of such Management Agreement as



additional security for the Loan;

(h) Affiliate Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Affiliate Transferee's formation documents provide for the matters described in subparagraph (f) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Affiliate Transferee in accordance with their terms, (C) that Affiliate Transferee and any entity which is a controlling stockholder, managing or sole member or general partner of Affiliate Transferee, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

(i) if required by Lender, Lender shall have received confirmation in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(j) Borrower's obligations under the contract of sale, if any, pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.7;

(k) in the event an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower and Affiliate Transferee shall, prior to such transfer and assumption, deliver a new or updated Insolvency Opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies;

(l) Borrower shall deliver to Lender evidence which would be satisfactory to a prudent lender that (i) the Affiliate Transfer Portion of the Property has been legally split or subdivided from the remainder of the Property; (ii) after giving effect to such transfer, each of the Affiliate Transfer Portion of the Property and the balance of the Property conforms and is in compliance in all material respects with applicable Legal Requirements and constitutes a separate tax lot and (iii) the Affiliate Transfer Portion of the Property is not necessary for the Property to comply with any zoning, building, land use or parking or other Legal Requirements applicable to the Property or for the then current use of the Property, including, without limitation, for access, driveways, parking, utilities or drainage or, to the extent that the Affiliate Transfer Portion of the Property is necessary for any such purposes, a reciprocal easement agreement has been executed and recorded that would allow the owner of the Property to

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continue to use the Affiliate Transfer Portion of the Property to the extent necessary for such purposes;

(m) Borrower shall deliver to Lender an endorsement to the Title Insurance Policy (i) extending the effective date of the Title Insurance Policy to the effective date of the transfer; (ii) confirming no change in the priority of the Mortgage on the Property (including the Affiliate Transfer Portion of the Property) or in the amount of the insurance or the coverage of the Property under the Title Insurance Policy; and (iii) insuring the rights and benefits under any new or amended reciprocal easement agreement or such other agreement required pursuant to subsection 7.7(1)(iii) hereof that has been executed and recorded, if any. Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Affiliate Transfer Portion of the Property, as applicable, is vested in Affiliate Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(n) not less than three (3) Business Days prior to the date of the

transfer and assumption, Borrower delivers to Lender approvals to the transfer executed by any entities other than Lender holding Liens encumbering the Property or the Affiliate Transfer Portion of the Property (or holding any other interest therein that would be affected by the transfer), if and to the extent such approval is required pursuant to the terms of any of the documents evidencing or securing such Lien or interest;

(o) Borrower and Affiliate Transferee have complied with any requirements applicable to the transfer in any Major Leases, REA's, operating agreements, parking agreements or other similar agreements affecting the Property or the Affiliate Transfer Portion of the Property and the transfer does not violate any of the provisions of such documents in any respect that would result in a termination (or give any other party thereto the right to terminate), extinguishment or other loss of material right of Borrower or in a material increase in Borrower's obligations under such documents and, to the extent necessary to comply with such documents, the Affiliate Transferee has assumed Borrower's obligations, if any, relating to the Affiliate Transfer Portion of the Property under such documents; and

(p) if a securitization shall have occurred, Borrower shall deliver to Lender one or more opinions of counsel for Borrower and Affiliate Transferee in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that the transfer and assumption by Affiliate Transferee pursuant to this Section 7.7 (1) will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (2) will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost; and

(q) Borrower delivers to Lender any other information, approvals and documents which would be required by a prudent Lender in connection with such transfer and assumption.

A consent by Lender with respect to a transfer of a portion of the Property to, and the related assumption of the Loan by, an Affiliate Transferee pursuant to this Section 7.7 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the

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Property or assumption of the Loan. Notwithstanding any transfer and assumption to an Affiliate Transferee pursuant to this Section 7.7, the Property and the Affiliate Transfer Portion of the Property shall be deemed a single Property for purposes of this Agreement and the Loan.

#### SECTION 7.8. ADDITIONAL PERMITTED TRANSFERS.

Notwithstanding anything to the contrary contained in this Article 7, Borrower may grant easements, restrictions, covenants, reservations and rights of way with respect to the Property in the ordinary course of business for water and sewer lines, telephone and telegraph lines, electric lines and other utilities or for other similar purposes, provided that such transfers, conveyances or encumbrances (i) shall not impair the utility and operation of the Property or materially adversely affect the value of the Property or adversely affect Borrower's ability to pay the Debt or the Monthly Payment Amount and (ii) shall be in a form that is reasonably acceptable to Lender.

### ARTICLE 8 INSURANCE; CASUALTY; CONDEMNATION; RESTORATION

#### SECTION 8.1. INSURANCE

(a) Borrower shall obtain and maintain, or cause to be maintained, at all times insurance for Borrower and the Property providing at least the following coverages:

(i) comprehensive "all risk" insurance (excluding terrorism coverage) on the Improvements and the Personal Property, in each case (A) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Agreement shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (B) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (C) providing for no deductible in excess of \$100,000 for all such insurance coverage; and (D) if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses, providing coverage for contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements and containing an "Ordinance or Law Coverage" or "Enforcement" endorsement. In addition, Borrower shall obtain: (y) if any portion of the Improvements is currently or at any time in the future located in a "special flood hazard area" designated by the Federal Emergency Management Agency, flood hazard insurance in an amount equal to the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended, and providing for no deductible in excess of \$250,000; and (z) earthquake insurance in amounts and in form and substance reasonably satisfactory to Lender in the event the Property is located in an area with a high degree of seismic risk, provided that the insurance pursuant to clauses (y) and (z) hereof shall be on terms consistent with the comprehensive all risk insurance policy required under this subsection (i);

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(ii) Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, with such insurance (A) to be on the so-called "occurrence" form with a general aggregate limit of not less than \$2,000,000 and a per occurrence limit of not less than \$1,000,000; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; and (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations; (3) independent contractors; (4) blanket contractual liability; and (5) contractual liability covering the indemnities contained in Article 12 and Article 14 hereof to the extent the same is available;

(iii) loss of rents insurance or business income insurance, as applicable, (A) with loss payable to Lender; (B) covering all risks required to be covered by the insurance provided for in subsection (i) above; and (C) which provides that after the physical loss to the Improvements and Personal Property occurs, the loss of rents or income, as applicable, will be insured until completion of Restoration or the expiration of twelve (12) months, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period; and (D) which contains an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such loss of rents or business income insurance, as applicable, shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross income from the Property for the succeeding period of coverage required above. All proceeds payable to Lender pursuant to this subsection shall

be held by Lender and shall be applied to the obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured by the Loan Documents on the respective dates of payment provided for in the Note, this Agreement and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such loss of rents or business income insurance, as applicable;

(iv) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements, and only if the Property coverage form does not otherwise apply, (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in subsection (i) above written in a so-called Builder's Risk Completed Value form (1) on a non-reporting basis, (2) against "all risks" insured against pursuant to subsection (i) above, (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions;

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(v) workers' compensation, subject to the statutory limits of the State, and employer's liability insurance in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable);

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

(vii) excess liability insurance in an amount not less than \$50,000,000 per occurrence on terms consistent with the commercial general liability insurance required under subsection (ii) above; and

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

(b) All insurance provided for in Section 8.1(a) shall be obtained under valid and enforceable policies (collectively, the "POLICIES" or in the singular, the "POLICY"), and shall be subject to the approval of Lender as to insurance companies, amounts, deductibles, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the State and having a claims paying ability rating of either (1) "AA" or better by at least two Rating Agencies, one of which must be S&P or such other Rating Agencies approved by Lender or (2) at least A-/VII by A.M. Best Company, Inc. The Policies described in Section 8.1(a) shall designate Lender and its successors and assigns as additional insureds, mortgagees and/or loss payee as deemed appropriate by Lender. To the extent such Policies are not available as of the Closing Date, Borrower shall deliver certified copies of all Policies to Lender not later than thirty (30) days after the Closing Date. Not less than ten (10) days prior to the expiration dates of the Policies theretofore furnished to Lender, Borrower shall deliver to Lender certificates evidencing renewal of the Policies (such certificates, the "INSURANCE CERTIFICATES") accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "INSURANCE PREMIUMS") and within sixty (60) days after the expiration date of such Policies, Borrower shall deliver to Lender renewal Policies

(c) Any blanket insurance Policy shall specifically allocate to

the Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Section 8.1(a).

(d) All Policies provided for or contemplated by Section 8.1(a), except for the Policy referenced in Section 8.1(a)(v), shall name Borrower as the insured, as its interests may appear, and in the case of property damage, boiler and machinery, flood and earthquake insurance, shall contain a so-called New York standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies provided for in Section 8.1(a) shall contain clauses or endorsements to the effect that:

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

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

(iii) the issuers thereof shall give written notice to Lender if the Policies have not been renewed thirty (30) days prior to its expiration; and

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

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

## SECTION 8.2. CASUALTY

If the Property shall be damaged or destroyed, in whole or in part in any material respect, by fire or other casualty (a "CASUALTY"), Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the Restoration of the Property in accordance with Section 8.4, whether or not Lender makes any Net Proceeds available pursuant to Section 8.4. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower. Borrower shall adjust all claims for Insurance Proceeds in consultation with, and approval of, Lender; provided, however, if an Event of Default has occurred and is continuing, Lender shall have the exclusive right to participate in the adjustment of all claims for Insurance Proceeds.

## SECTION 8.3. CONDEMNATION

Borrower shall promptly give Lender notice of the actual or threatened commencement of any proceeding for the Condemnation of the Property of which

Borrower has knowledge and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender may participate in any such proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Notwithstanding any taking by any public or quasi-public authority through Condemnation or

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otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Agreement and the Debt shall not be reduced until any Award shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided herein or in the Note. If the Property or any portion thereof is taken by a condemning authority, Borrower shall promptly commence and diligently prosecute the Restoration of the Property and otherwise comply with the provisions of Section 8.4, whether or not Lender makes any Net Proceeds available pursuant to Section 8.4. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the Award, or a portion thereof sufficient to pay the Debt.

#### SECTION 8.4. RESTORATION

The following provisions shall apply in connection with the Restoration of the Property:

(a) If the Net Proceeds shall be less than \$250,000 and the costs of completing the Restoration shall be less than \$250,000, the Net Proceeds will be disbursed by Lender to Borrower upon receipt, provided that all of the conditions set forth in Section 8.4(b)(i) are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to satisfactorily complete with due diligence the Restoration in accordance with the terms of this Agreement.

(b) If the Net Proceeds are equal to or greater than \$250,000 or the costs of completing the Restoration are equal to or greater than \$250,000, Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Section 8.4. The term "NET PROCEEDS" for purposes of this Section 8.4 shall mean: (i) the net amount of all insurance proceeds received by Lender pursuant to Section 8.1(a)(i), (iv), (vi) and (viii) as a result of a Casualty, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("INSURANCE PROCEEDS"), or (ii) the net amount of the Award as a result of a Condemnation, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("CONDEMNATION PROCEEDS"), whichever the case may be.

(i) The Net Proceeds shall be made available to Borrower for Restoration provided that each of the following conditions are met:

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

(B) (1) in the event the Net Proceeds are Insurance Proceeds, less than twenty-five percent (25%) of the mobile home and/or recreational vehicle pads, as applicable, on the Property shall be rendered unusable for a period in excess of twelve (12) months as a result of a Casualty or (2)

in the event the Net Proceeds are Condemnation Proceeds, less than fifteen percent (15%) of the rentable area

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of the Property and fifteen percent (15%) of the fair market value of the Land constituting the Property is taken, such land is located along the perimeter or periphery of the Property, and no portion of the permanent Improvements is located on such land;

(C) intentionally deleted;

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

(E) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note, which will be incurred with respect to the Property as a result of the occurrence of any such Casualty or Condemnation, whichever the case may be, will be covered out of the insurance coverage referred to in Section 8.1(a)(iii) above;

(F) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) six (6) months prior to the Maturity Date, (2) the earliest date required for such completion under the terms of any Major Leases, Ground Leases, if applicable, Operating Leases, if applicable, or material agreements affecting the Property, (3) such time as may be required under applicable zoning law, ordinance, rule or regulation, or (4) the expiration of the insurance coverage referred to in Section 8.1(a)(iii);

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

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

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

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

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

(ii) The Net Proceeds shall be held by Lender until disbursements commence, and, until disbursed in accordance with the provisions of this Section 8.4, shall constitute additional security for the Debt and other obligations under the Loan Documents. The

Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower on a monthly basis during the course of the Restoration in accordance with customary construction lending practices, upon receipt of evidence satisfactory to Lender that (A) all the conditions precedent to such advance, including those set forth in Section 8.4(b)(i), have been satisfied, (B) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the related Restoration item have been paid for in full, and (C) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property which have not either been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policy. Notwithstanding the foregoing, Insurance Proceeds from the Policies required to be maintained by Borrower pursuant to Section 8.1(a)(iii) shall be controlled by Lender at all times, shall not be subject to the provisions of this Section 8.4 and shall be used for the payment of all of the obligations due and payable under the Loan Documents for the entire time period for which any such Insurance Proceeds relate. After such application of the Insurance Proceeds, the remaining balance, if any, of any such proceeds shall be disbursed and/or applied as follows: (A) provided no Event of Default has occurred and is continuing, to Borrower and (B) upon the occurrence and during the continuance of an Event of Default, to Operating Expenses.

(iii) All plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender and to the extent the Restoration relates to any permanent Improvements on the Property, by an independent consulting engineer selected by Lender (the "Restoration Consultant"). Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. To the extent the Restoration relates to any permanent Improvements on the Property, the identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts in excess of \$100,000 under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Restoration Consultant. All costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration, including, without limitation, reasonable counsel fees and disbursements and the Restoration Consultant's fees, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Restoration Consultant, minus the Restoration Retainage. The term "Restoration Retainage" shall mean an amount equal to ten percent (10%) of the costs actually incurred for work in place as part of the Restoration, as certified by the Restoration Consultant, until the Restoration has been completed. The Restoration Retainage shall be reduced to five percent (5%) of the costs incurred upon receipt by Lender of satisfactory evidence that fifty percent (50%) of the Restoration has been completed. The Restoration Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Section 8.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Restoration Retainage shall not be released



until the Restoration Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b) and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate Governmental Authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Restoration Retainage; provided, however, that Lender will release the portion of the Restoration Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Restoration Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company issuing the Title Insurance Policy, and Lender receives an endorsement to the Title Insurance Policy insuring the continued priority of the lien of the Mortgage and evidence of payment of any premium payable for such endorsement. If required by Lender, the release of any such portion of the Restoration Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(vi) If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the reasonable opinion of Lender in consultation with the Restoration Consultant, as applicable, be sufficient to pay in full the balance of the costs which are estimated to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "Net Proceeds Deficiency") with Lender before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be held by Lender and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Section 8.4(b) shall constitute additional security for the Debt and other obligations under the Loan Documents.

(vii) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after Borrower and the Restoration Consultant, to the extent applicable, certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b), and the receipt by Lender of evidence satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be remitted by Lender to Borrower, provided no Event of Default shall have occurred and shall be continuing under the Note, this Agreement or any of the other Loan Documents.

(c) All Net Proceeds not required (i) to be made available for the Restoration or (ii) to be returned to Borrower as excess Net Proceeds pursuant to Section 8.4(b)(vii) may (x) be retained and applied by Lender toward the payment of the Debt whether or not then due and

payable in such order, priority and proportions as Lender in its sole discretion shall deem proper, or, (y) at the sole discretion of Lender, the same may be paid, either in whole or in part, to Borrower for such purposes and upon such conditions as Lender shall designate.

(d) In the event of foreclosure of the Mortgage, or other transfer of title to the Property in extinguishment in whole or in part of the Debt, all right, title and interest of Borrower in and to the Policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure, Lender or other transferee in the event of such other transfer of title.

ARTICLE 9  
RESERVE FUNDS

SECTION 9.1. REQUIRED REPAIRS

(a) Borrower shall make the repairs and improvements to the Property set forth on Schedule 2 and as more particularly described in the Physical Conditions Report prepared in connection with the closing of the Loan (such repairs hereinafter referred to as "REQUIRED REPAIRS"). Borrower shall complete the Required Repairs in a good and workmanlike manner on or before the date that is twelve (12) months from the date hereof or within such other time frame for completion specifically set forth on Schedule 2.

SECTION 9.2. REPLACEMENTS

(a) On an ongoing basis throughout the term of the Loan, Borrower shall make capital repairs, replacements and improvements necessary to keep the Property in good order and repair and in a good marketable condition or prevent deterioration of the Property ("REPLACEMENTS"). Borrower shall complete all Replacements in a good and workmanlike manner as soon as commercially reasonable after commencing to make each such Replacement.

(b) Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent to fund the Replacements (the "REPLACEMENT RESERVE ACCOUNT"). In addition, Borrower shall deposit \$4.17 monthly per pad (the "REPLACEMENT RESERVE MONTHLY DEPOSIT") into the Replacement Reserve Account on each Scheduled Payment Date during any Replacement Reserve Period. Amounts so deposited shall hereinafter be referred to as "REPLACEMENT RESERVE FUNDS."

SECTION 9.3. INTENTIONALLY DELETED.

SECTION 9.4. REQUIRED WORK.

Borrower shall diligently pursue all Required Repairs and Replacements (collectively, the "REQUIRED WORK") to completion in accordance with the following requirements:

(a) Lender reserves the right, at its option, to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Required Work to the extent such contracts or work

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orders exceed \$100,000. Upon Lender's request, Borrower shall assign any contract or subcontract to Lender.

(b) In the event Lender determines in its reasonable discretion that any Required Work is not being or has not been performed in a workmanlike or timely manner, upon ten (10) days notice to Borrower and Borrower's failure to commence performance of such Required Work in accordance with this Section 9.4, Lender shall have the option to withhold disbursement for such unsatisfactory Required Work and to proceed under existing contracts or to contract with third parties to complete such Required Work and to apply Replacement Reserve Funds, if any, toward the labor and materials necessary to complete such Required Work, without providing any prior notice to Borrower and to exercise any and all other remedies available to Lender upon an Event of Default hereunder.

(c) In order to facilitate Lender's completion of the Required Work, as permitted in subsection 9.4(b) above, Borrower grants Lender the right to enter onto the Property and perform any and all work and labor necessary to complete the Required Work and/or employ watchmen to protect the Property from damage. All sums so expended by Lender, to the extent not from the Reserve Funds, shall be deemed to have been advanced under the Loan to Borrower and secured by the Mortgage. For this purpose Borrower constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete or undertake the Required Work in the name of Borrower upon Borrower's failure to do so in a workmanlike and timely manner. Such power of attorney shall be deemed to be a power coupled with an interest and cannot be revoked. Borrower empowers said attorney-in-fact as follows: (i) to use any of the Reserve Funds for the purpose of making or completing the Required Work; (ii) to make such additions, changes and corrections to the Required Work as shall be reasonably necessary to complete the Required Work; (iii) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes; (iv) to pay, settle or compromise all existing bills and claims which are or may become Liens against the Property, or as may be reasonably necessary for the completion of the Required Work, or for clearance of title; (v) to execute all applications and certificates in the name of Borrower which may be required by any of the contract documents; (vi) to prosecute and defend all actions or proceedings in connection with the Property or the rehabilitation and repair of the Property; and (vii) to do any and every act which Borrower would be required to do on its own behalf to fulfill the terms of this Agreement.

(d) Nothing in this Section 9.4 shall: (i) make Lender responsible for making or completing the Required Work; (ii) require Lender to expend funds in addition to the Reserve Funds to make or complete any Required Work; (iii) obligate Lender to proceed with the Required Work; or (iv) obligate Lender to demand from Borrower additional sums to make or complete any Required Work.

(e) Borrower shall permit Lender and Lender's agents and representatives (including, without limitation, Lender's engineer, architect, or inspector) or third parties performing Required Work pursuant to this Section 9.4 to enter onto the Property during normal business hours (subject to the rights of tenants under their Leases) to inspect the progress of any Required Work and all materials being used in connection therewith, to examine all plans and shop drawings relating to such Required Work which are or may be kept at the Property, and to

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complete any Required Work made pursuant to this Section 9.4. Borrower shall cause all contractors and subcontractors to cooperate with Lender and Lender's representatives or such other persons described above in connection with inspections described in this Section 9.4 or the completion of Required Work pursuant to this Section 9.4.

(f) Lender may, to the extent any Required Work would reasonably require an inspection of the Property, inspect the Property at Borrower's expense prior to making a disbursement of the Reserve Funds in order to verify completion of the Required Work for which reimbursement is sought. Borrower shall pay Lender a reasonable inspection fee not exceeding \$500 for each such inspection. Lender may require that such inspection be conducted by an appropriate independent qualified professional selected by Lender and/or may require a copy of a certificate of completion by an independent qualified professional acceptable to Lender prior to the disbursement of the Reserve Funds. Borrower shall pay the expense of the inspection as required hereunder, whether such inspection is conducted by Lender or by an independent qualified professional.

(g) The Required Work and all materials, equipment, fixtures, or any other item comprising a part of any Required Work shall be constructed, installed or completed, as applicable, free and clear of all mechanic's,

materialman's or other Liens (except for Permitted Encumbrances).

(h) Before each disbursement of the Reserve Funds, if any, Lender may require Borrower to provide Lender with a search of title to the Property effective to the date of the disbursement, which search shows that no mechanic's or materialmen's or other Liens of any nature have been placed against the Property since the date of recordation of the Mortgage and that title to the Property is free and clear of all Liens (except for Permitted Encumbrances).

(i) All Required Work shall comply with all Legal Requirements in all material respects and applicable insurance requirements including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters.

(j) Borrower hereby assigns to Lender all rights and claims Borrower may have against all Persons supplying labor or materials in connection with the Required Work; provided, however, that Lender may not pursue any such rights or claims unless an Event of Default has occurred and remains uncured.

#### SECTION 9.5. RELEASE OF RESERVE FUNDS

(a) Upon written request from Borrower and satisfaction of the requirements set forth in this Agreement, Lender shall disburse to Borrower amounts, if any, from the Replacement Reserve Account to the extent necessary to reimburse Borrower for the actual costs of any approved Replacements. Notwithstanding the preceding sentence, in no event shall Lender be required to (x) disburse funds from any of the Reserve Accounts if an Event of Default exists or (y) disburse funds (if any) from the Replacement Reserve Account to reimburse Borrower for the costs of routine repairs or maintenance to the Property or for costs which are to be reimbursed from funds held in any other Reserve Account.

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(b) Each request for disbursement from any of the Reserve Accounts shall be on a form provided or approved by Lender and shall (i) include copies of invoices for all items or materials purchased and all labor or services provided and (ii) specify (A) the Required Work for which the disbursement is requested, (B) the quantity and price of each item purchased, if the Required Work includes the purchase or replacement of specific items, (C) the price of all materials (grouped by type or category) used in any Required Work other than the purchase or replacement of specific items, and (D) the cost of all contracted labor or other services applicable to each Required Work for which such request for disbursement is made. With each request Borrower shall certify that all Required Work has been performed in accordance with all Legal Requirements. Except as provided in Section 9.5(d), each request for disbursement shall be made only after completion of the Replacement (or the portion thereof completed in accordance with Section 9.5(d)) for which disbursement is requested. Borrower shall provide Lender evidence satisfactory to Lender in its reasonable judgment of such completion or performance.

(c) Upon Borrower's request, Lender shall disburse funds from the Replacement Reserve Account to Borrower on a monthly basis, and Borrower shall use such funds to pay all invoices in connection with the Required Work with respect to which a disbursement is requested. In addition, as a condition to any disbursement, Lender may require Borrower to obtain lien waivers from each contractor, supplier, materialman, mechanic or subcontractor who receives payment in an amount equal to or greater than \$10,000 for completion of its work or delivery of its materials. Any lien waiver delivered hereunder shall conform to all Legal Requirements and shall cover all work performed and materials supplied (including equipment and fixtures) for the Property by that contractor, supplier, subcontractor, mechanic or materialman through the date covered by the current disbursement request (or, in the event that payment to such contractor, supplier, subcontractor, mechanic or materialmen is to be made by a joint check, the release of lien shall be effective through the date covered by the previous release of funds request).

(d) If (i) the cost of any item of Required Work exceeds \$25,000 and (ii) the contractor performing such Required Work requires periodic payments pursuant to terms of a written contract, a request for disbursement from the Reserve Accounts may be made after completion of a portion of the work under such contract, provided (A) such contract requires payment upon completion of such portion of work, (B) the materials for which the request is made are on site at the Property and are properly secured or have been installed in the Property, (C) all other conditions in this Agreement for disbursement have been satisfied, and (D) in the case of a Replacement, funds remaining in the Replacement Reserve Account are, in Lender's judgment, sufficient to complete such Replacement and other Replacements when required.

(e) Borrower shall not make a request for, nor shall Lender have any obligation to make, any disbursement from any Reserve Account more frequently than once in any calendar month and (except in connection with the final disbursement) in any amount less than the lesser of (i) \$10,000 or (ii) the total cost of the Required Work for which the disbursement is requested.

(f) Intentionally deleted.

(g) Intentionally deleted.

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(h) Lender's disbursement of any Reserve Funds or other acknowledgment of completion of any Required Work in a manner satisfactory to Lender shall not be deemed a certification or warranty by Lender to any Person that the Required Work has been completed in accordance with Legal Requirements.

(i) If the funds in any Reserve Account should exceed the amount of payments actually applied by Lender for the purposes of the account, Lender in its sole discretion shall either return any excess to Borrower or credit such excess against future payments to be made to that Reserve Account. In allocating any such excess, Lender may deal with the Person shown on Lender's records as being the owner of the Property.

(j) The insufficiency of any balance in any of the Reserve Accounts shall not relieve Borrower from its obligation to fulfill all preservation and maintenance covenants in the Loan Documents.

(k) INTENTIONALLY DELETED.

(l) Upon termination of the Replacement Reserve Period or payment in full of the Debt, all amounts remaining on deposit, if any, in the Replacement Reserve Account shall be returned to Borrower or the Person shown on Lender's records as being the owner of the Property and no other party shall have any right or claim thereto.

#### SECTION 9.6. TAX AND INSURANCE RESERVE FUNDS

Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent sufficient to discharge Borrower's obligations for the payment of Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof (the "TAX AND INSURANCE RESERVE ACCOUNT"). Borrower shall deposit into the Tax and Insurance Reserve Account on each Scheduled Payment Date during any Tax and Insurance Reserve Period (a) one-twelfth of the Taxes that Lender estimates will be payable during the next ensuing twelve (12) months or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Taxes at least thirty (30) days prior to the earlier of (i) the date that the same will become delinquent and (ii) the date that additional charges or interest will accrue due to the non-payment thereof, and (b) except to the extent Lender has waived the insurance escrow because the insurance required hereunder is maintained under a blanket insurance Policy acceptable to Lender in accordance with Section 8.1(c), one-twelfth of the Insurance Premiums that Lender estimates will be payable during the next ensuing twelve (12) months for

the renewal of the coverage afforded by the Policies upon the expiration thereof or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Insurance Premiums at least thirty (30) days prior to the expiration of the Policies (said amounts in (a) and (b) above hereinafter called the "TAX AND INSURANCE RESERVE FUNDS"). Lender will apply the Tax and Insurance Reserve Funds to payments of Taxes and Insurance Premiums required to be made by Borrower pursuant to Section 5.4 and Section 8.1 hereof. In making any disbursement from the Tax and Insurance Reserve Account, Lender may do so according to any bill, statement or estimate procured from the appropriate public office or tax lien service (with respect to Taxes) or insurer or agent (with respect to Insurance Premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim

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thereof. If the amount of the Tax and Insurance Reserve Funds shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the Tax and Insurance Reserve Account. In allocating any such excess, Lender may deal with the person shown on Lender's records as being the owner of the Property. Any amount remaining in the Tax and Insurance Reserve Account after the Debt has been paid in full shall be returned to Borrower or the person shown on Lender's records as being the owner of the Property and no other party shall have any right or claim thereto. If at any time Lender reasonably determines that the Tax and Insurance Reserve Funds are not or will not be sufficient to pay Taxes and Insurance Premiums by the dates set forth in (a) and (b) above, Lender shall notify Borrower of such determination and Borrower shall pay to Lender any amount necessary to make up the deficiency within ten (10) days after notice from Lender to Borrower requesting payment thereof.

#### SECTION 9.7. EXCESS CASH

Borrower shall establish on the date hereof a sub-account of the Cash Management Account into which Borrower shall deposit all Excess Cash on each Scheduled Payment Date during any Cash Management Period (the "EXCESS CASH RESERVE ACCOUNT"). Amounts so deposited shall hereinafter be referred to as the "EXCESS CASH RESERVE FUNDS." Sums from the Excess Cash Reserve Account shall be disbursed to Borrower's Account upon the discontinuation of a Cash Management Period.

#### SECTION 9.8. TERRORISM RESERVE.

Upon the occurrence of an Act of Terror (i) Borrower shall establish an Eligible Account with Lender or Lender's agent (the "TERRORISM RESERVE ACCOUNT") and (ii) Borrower Principal shall immediately deposit into the Terrorism Reserve Account an amount equal to the sum of the three (3) Monthly Payment Amounts that would be payable by Borrower for the three (3) Scheduled Payment Dates immediately following the occurrence of such Act of Terror. Amounts so deposited shall hereinafter be referred to as the "TERRORISM RESERVE FUNDS". "ACT OF TERROR" shall mean any foreign acts of terrorism or similar acts of sabotage (excluding acts of war or nuclear, chemical and biological acts) in which the Property is directly affected by such acts. Lender shall apply Terrorism Reserve Funds, if any, to any amounts due hereunder.

#### SECTION 9.9. RESERVE FUNDS GENERALLY

(a) Funds on deposit in the Reserve Accounts shall be held by Lender or any Loan servicer, as applicable, and invested in Permitted Investments as directed by Lender, and interest shall be credited to Borrower. All such interest shall be and become part of the applicable Reserve Accounts and shall be disbursed in accordance with Section 9.5 above, provided, however, that Lender may, at its election, retain any such interest for its own account for application to the Debt in accordance with this Agreement and the other Loan Documents during the occurrence and continuance of an Event of Default. Borrower

agrees that it shall include all interest on the applicable Reserve Funds as the income of Borrower (and, if Borrower is a partnership or other pass-through entity, the partners, members or beneficiaries of Borrower, as

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the case may be), and shall be the owner of the applicable Reserve Funds for federal and applicable state and local tax purposes.

(b) Borrower grants to Lender a first-priority perfected security interest in, and assigns and pledges to Lender, each of the Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts as additional security for payment of the Debt. Until expended or applied in accordance herewith, the Reserve Accounts and the Reserve Funds shall constitute additional security for the Debt. The provisions of this Section 9.9 are intended to give Lender or any subsequent holder of the Loan "control" of the Reserve Accounts within the meaning of the UCC.

(c) The Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts shall be subject to the exclusive dominion and control of Lender, which shall hold the Reserve Accounts and any or all Reserve Funds now or hereafter deposited in the Reserve Accounts subject to the terms and conditions of this Agreement. Borrower shall have no right of withdrawal from the Reserve Accounts or any other right or power with respect to the Reserve Accounts or any or all of the Reserve Funds now or hereafter deposited in the Reserve Accounts, except as expressly provided in this Agreement.

(d) Lender shall furnish or cause to be furnished to Borrower, without charge, an annual accounting of each Reserve Account in the normal format of Lender or its loan servicer, showing credits and debits to such Reserve Account and the purpose for which each debit to each Reserve Account was made.

(e) As long as no Event of Default has occurred and is continuing, Lender shall make disbursements from the Reserve Accounts in accordance with this Agreement. All such disbursements shall be deemed to have been expressly pre-authorized by Borrower, and shall not be deemed to constitute the exercise by Lender of any remedies against Borrower unless an Event of Default has occurred and is continuing and Lender has expressly stated in writing its intent to proceed to exercise its remedies as a secured party, pledgee or lienholder with respect to the Reserve Accounts.

(f) If any Event of Default occurs, Borrower shall immediately lose all of its rights to receive disbursements from the Reserve Accounts until the earlier to occur of (i) the date on which such Event of Default is cured to Lender's satisfaction, or (ii) the payment in full of the Debt. In addition, at Lender's election, Borrower shall lose all of its rights to receive interest on the Reserve Accounts during the occurrence and continuance of an Event of Default. Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured party, pledgee and lienholder with respect to the Reserve Accounts. Without limitation of the foregoing, during the continuance of any Event of Default, Lender may use and disburse the Reserve Funds (or any portion thereof) for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses, fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents;

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(D) payment of any item from any of the Reserve Accounts as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Reserve Funds and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Reserve Funds to effect a cure of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

(g) The Reserve Funds shall not constitute escrow or trust funds and may be commingled with other monies held by Lender. Notwithstanding anything else herein to the contrary, Lender may commingle in one or more Eligible Accounts any and all funds controlled by Lender, including, without limitation, funds pledged in favor of Lender by other borrowers, whether for the same purposes as the Reserve Accounts or otherwise. Without limiting any other provisions of this Agreement or any other Loan Document, the Reserve Accounts may be established and held in such name or names as Lender or its loan servicer, as agent for Lender, shall deem appropriate, including, without limitation, in the name of Lender or such loan servicer as agent for Lender. In the case of any Reserve Account which is held in a commingled account, Lender or its loan servicer, as applicable, shall maintain records sufficient to enable it to determine at all times which portion of such account is related to the Loan. The Reserve Accounts are solely for the protection of Lender. With respect to the Reserve Accounts, Lender shall have no responsibility beyond the allowance of due credit for the sums actually received by Lender or beyond the reimbursement or payment of the costs and expenses for which such accounts were established in accordance with their terms. Upon assignment of the Loan by Lender, any Reserve Funds shall be turned over to the assignee and any responsibility of Lender as assignor shall terminate. The requirements of this Agreement concerning Reserve Accounts in no way supersede, limit or waive any other rights or obligations of the parties under any of the Loan Documents or under applicable law.

(h) Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in the Reserve Accounts or the Reserve Funds deposited therein or permit any Lien to attach thereto, except for the security interest granted in this Section 9.9, or any levy to be made thereon, or any UCC Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto.

(i) Borrower will maintain the security interest created by this Section 9.9 as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Reserve Accounts and the Reserve Funds against the claims and demands of all Persons whomsoever. At any time and from time to time, upon the written request of Lender, and at the sole expense of Borrower, Borrower will promptly and duly execute and deliver such further instruments and documents and will take such further actions as Lender reasonably may request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted.

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ARTICLE 10  
CASH MANAGEMENT

SECTION 10.1. LOCKBOX ACCOUNT AND CASH MANAGEMENT ACCOUNT

(a) Borrower acknowledges and confirms that Borrower has established, and Borrower covenants that it shall maintain, (i) pursuant to the



Lockbox Agreement, an Eligible Account into which Borrower shall, and shall cause Manager to, deposit or cause to be deposited, all Rents and other revenue from the Property (such account, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "LOCKBOX ACCOUNT"), and (ii) an Eligible Account with Lender or any Loan servicer, as applicable, into which funds in the Lockbox Account shall be transferred pursuant to the terms of Section 10.2(b) hereof (such account, the sub-accounts thereof, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "CASH MANAGEMENT ACCOUNT").

(b) The Lockbox Account and Cash Management Account shall each be in the name of Borrower for the benefit of Lender, as secured party, provided that Borrower shall be the owner of all funds on deposit in such accounts for federal and applicable state and local tax purposes. Sums on deposit in the Cash Management Account shall not be invested except in such Permitted Investments as determined and directed by Lender and all income earned thereon shall be the income of Borrower and be applied to and become part of the Cash Management Account, to be disbursed in accordance with this Article 10. Neither Lockbox Bank nor Lender shall have any liability for any loss resulting from the investment of funds in Permitted Investments in accordance with the terms and conditions of this Agreement.

(c) The Lockbox Account and Cash Management Account shall be subject to the exclusive dominion and control of Lender and, except as otherwise expressly provided herein, neither Borrower, Manager nor any other party claiming on behalf of, or through, Borrower or Manager, shall have any right of withdrawal therefrom or any other right or power with respect thereto.

(d) Borrower agrees to pay the customary fees and expenses of Lockbox Bank (incurred in connection with maintaining the Lockbox Account) and Lender (incurred in connection with maintaining the Cash Management Account) and any successors thereto in connection therewith, as separately agreed by them from time to time.

(e) Lender shall be responsible for the performance only of such duties with respect to the Cash Management Account as are specifically set forth herein, and no duty shall be implied from any provision hereof. Lender shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own monies. Borrower shall indemnify and hold Lender and its directors, employees, officers and agents harmless from and against any loss, cost or damage (including, without limitation, reasonable attorneys' fees and disbursements) incurred by such parties in connection with the Cash Management Account other than such as result from the gross negligence or willful misconduct of Lender or intentional nonperformance by Lender of its obligations under this Agreement.

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#### SECTION 10.2. DEPOSITS AND WITHDRAWALS

(a) Borrower represents, warrants and covenants that:

(i) Concurrently with the execution of this Agreement, Borrower shall notify and advise Manager to deposit directly into the Lockbox Account all payments of Rents or any other item payable under such Leases pursuant to an instruction letter in the form of Exhibit A attached hereto (a "RENT DIRECTION LETTER"). If Borrower fails to provide any such notice (and without prejudice to Lender's rights with respect to such default), Lender shall have the right, and Borrower hereby grants to Lender a power of attorney (which power of attorney shall be coupled with an interest and irrevocable so long as any portion of the Debt remains outstanding), to sign and deliver a Rent Direction Letter;

(ii) Borrower shall, and shall cause Manager to, instruct all Persons that maintain open accounts with Borrower or Manager with respect to the Property or with whom Borrower or Manager does business on an "accounts receivable" basis with respect to the Property to deliver all payments due under such accounts to the Lockbox Account. Neither Borrower nor Manager shall direct any such Person to make payments due under such accounts in any other manner;

(iii) All Rents or other income from the Property shall (A) be deemed additional security for payment of the Debt and shall be held in trust for the benefit, and as the property, of Lender, (B) not be commingled with any other funds or property of Borrower or Manager, and (C) if received by Borrower notwithstanding the delivery of a Rent Direction Letter, be deposited in the Lockbox Account within one (1) Business Day of receipt;

(iv) Without the prior written consent of Lender, so long as any portion of the Debt remains outstanding, Borrower shall not terminate, amend, revoke or modify any Rent Direction Letter in any manner whatsoever or direct or cause Manager to pay any amount in any manner other than as provided in the Rent Direction Letter; and

(v) So long as any portion of the Debt remains outstanding, neither Borrower, Manager nor any other Person shall open or maintain any accounts other than the Lockbox Account into which revenues from the ownership and operation of the Property are deposited. The foregoing shall not prohibit Borrower from utilizing one or more separate accounts for the disbursement or retention of funds that have been transferred to Borrower pursuant to the express terms of this Agreement.

(b) Provided no Event of Default has occurred, at all times other than during a Cash Management Period, Lockbox Bank shall, on each Business Day, withdraw all collected and available funds in excess of \$2,500 (funds are not available if, in the reasonable determination of Lockbox Bank, such funds are subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing their withdrawal) held in the Lockbox Account and disburse such funds to the Borrower Account. Upon the occurrence and during the continuance of a Cash Management Period, Lockbox Bank shall (and Lender shall instruct Lockbox Bank to), on each Business Day, withdraw all collected and available funds (funds are

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not available if, in the reasonable determination of Lockbox Bank, such funds are subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing their withdrawal) held in the Lockbox Account and transfer by wire transfer or other method of transfer mutually agreeable to Lockbox Bank and Lender to the Cash Management Account to be held until disbursed by Lender pursuant to Section 10.2(c). Provided no Event of Default has occurred and is continuing, upon the earlier to occur of (a) payment in full of the Debt or (b) the discontinuation of a Cash Management Period, Lockbox Bank shall no longer transfer funds in the Lockbox Account to the Cash Management Account in accordance with this subsection (b) and shall transfer funds (if any) in the Lockbox Account to the Borrower Account or, upon payment in full of the Debt, as otherwise directed by Borrower. In the event a Cash Management Period occurs three times during the term of the Loan and if required by the Lockbox Bank, Borrower shall not be entitled to any rights to the withdrawal of funds from the Lockbox Account during the remaining term of the Loan, the Cash Management Period shall continue, and Lender shall continue to have the right to the withdrawal of funds from the Lockbox Account until the Debt is paid in full.

(c) During a Cash Management Period, on each Scheduled Payment Date (and if such day is not a Business Day, then the immediately preceding day which is a Business Day) commencing the month immediately following the month

during which the Cash Management Period commences, Borrower hereby irrevocably authorizes Lender to withdraw or allocate to the sub-accounts of the Cash Management Account, as the case may be, amounts received in the Cash Management Account, in each case to the extent that sufficient funds remain therefor and Lender may, at its option, withdraw or allocate such funds as follows:

(i) during a Tax and Insurance Reserve Period, funds sufficient to pay the monthly deposits to the Tax and Insurance Reserve Account shall be allocated to the Tax and Insurance Reserve Account to be held and disbursed in accordance with Section 9.6;

(ii) funds sufficient to pay the Monthly Payment Amount (or an amount up to the entire amount of the Debt upon an acceleration of the Loan in accordance with the terms hereof), shall be withdrawn and paid to Lender;

(iii) during a Replacement Reserve Period, funds sufficient to pay the Replacement Reserve Monthly Deposit shall be allocated to the Replacement Reserve Account to be held and disbursed in accordance with Section 9.5;

(iv) funds sufficient to pay any interest accruing at the Default Rate, late payment charges, if any, and any other sums due and payable to Lender under any of the Loan Documents, shall be withdrawn and paid to Lender and applied against such items;

(v) funds sufficient to pay Lockbox Bank for all costs and expenses incurred by Lockbox Bank in connection with the maintenance and administration of the Lockbox Account;

(vi) funds sufficient to pay Lender or any Loan servicer, as applicable, the customary fees and expenses incurred in connection with maintaining the Cash Management Account; and

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(vii) funds in an amount equal to the balance (if any) remaining on deposit in the Cash Management Account after the foregoing withdrawals and allocations shall be deposited in the Excess Cash Reserve Account to be held and disbursed in accordance with Section 9.7. Upon the discontinuance of a Cash Management Period, funds (if any) on deposit in the Excess Cash Reserve Account shall be transferred to Borrower's Account.

(d) Notwithstanding anything to the contrary herein, Borrower acknowledges that Borrower is responsible for monitoring the sufficiency of funds deposited in the Cash Management Account and that Borrower is liable for any deficiency in available funds, irrespective of whether Borrower has received any account statement, notice or demand from Lender or Lender's servicer. If the amount on deposit in the Cash Management Account is insufficient to make all of the withdrawals and allocations described in Section 10.2(c) (i) through (vi) above, Borrower shall deposit such deficiency into the Cash Management Account within five (5) days (provided that such five day period shall not constitute a grace period for any default or Event of Default under this Agreement or any other Loan Document based on a failure to satisfy any monetary obligation provided in any Loan Document).

(e) Notwithstanding anything to the contrary contained herein, if an Event of Default shall have occurred and be continuing, Borrower hereby irrevocably authorizes Lender to make any and all withdrawals from the Lockbox Account and Cash Management Account and transfers between any of the Reserve Accounts as Lender shall determine in Lender's sole and absolute discretion and Lender may use all funds contained in any such accounts for any purpose, including but not limited to repayment of the Debt in such order, proportion and priority as Lender may determine in its sole and absolute discretion. Lender's right to withdraw and apply funds as stated herein shall be in addition to all other rights and remedies provided to Lender under this

Agreement, the Note, the Mortgage and the other Loan Documents.

#### SECTION 10.3. SECURITY INTEREST

(a) To secure the full and punctual payment of the Debt and performance of all obligations of Borrower now or hereafter existing under this Agreement and the other Loan Documents, Borrower hereby grants to Lender a first-priority perfected security interest in the Lockbox Account and Cash Management Account, all interest, cash, checks, drafts, certificates and instruments, if any, from time to time deposited or held therein, any and all amounts invested in Permitted Investments, and all "proceeds" (as defined in the UCC as in effect in the state in which the Lockbox Account and Cash Management Account are located or maintained) of any or all of the foregoing. Furthermore, Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any of the foregoing or permit any Lien to attach thereto or any levy to be made thereon or any UCC Financing Statements to be filed with respect thereto. Borrower will maintain the security interest created by this Section 10.3(a) as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Lockbox Account and Cash Management Account against the claims and demands of all Persons whomsoever.

(b) Borrower authorizes Lender to file any financing statement or statements required by Lender to establish or maintain the validity, perfection and priority of the security interest

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granted herein in connection with the Lockbox Account and Cash Management Account. Borrower agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly and duly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby (including, without limitation, any security interest in and to any Permitted Investments) or to enable Lender to exercise and enforce its rights and remedies hereunder.

(c) Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured party, pledgee and lienholder with respect to the Lockbox Account and Cash Management Account. Without limitation of the foregoing, upon any Event of Default, Lender may use the Lockbox Account and Cash Management Account for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses, fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents; (D) payment of any item as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Lockbox Account and Cash Management Account and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Lockbox Account or Cash Management Account to effect a cure of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

SECTION 10.4. DEFINITIONS. Notwithstanding anything to the contrary contained herein, For purposes of this Article 10 only, Business Day shall mean a day on which Lender and Lockbox Bank are both open for the conduct of substantially all of their respective banking business at the office in the city in which the Note is payable, with respect to Lender and at the office in the city where the Lockbox Account is maintained, with respect to Lockbox Bank (in both instances, excluding Saturdays and Sundays).

ARTICLE 11  
EVENTS OF DEFAULT; REMEDIES

SECTION 11.1. EVENT OF DEFAULT

The occurrence of any one or more of the following events shall constitute an "EVENT OF DEFAULT":

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(a) if any portion of the Debt is not paid prior to the tenth (10th) calendar day following the date the same is due or if the entire Debt is not paid on or before the Maturity Date;

(b) except as otherwise expressly provided in the Loan Documents, if any of the Taxes or Other Charges are not paid when the same are due and payable, unless there is sufficient money in the Tax and Insurance Reserve Account for payment of amounts then due and payable and Lender's access to such money has not been constrained or restricted in any manner;

(c) if the Policies are not kept in full force and effect, or if the Insurance Certificates or certified copies of the Policies are not delivered to Lender as provided in Section 8.1;

(d) if Borrower breaches (i) any covenant with respect to itself or any SPE Component Entity (if any) contained in Article 6 and (A) such breach is not cured within ten (10) days of the occurrence thereof and (B) if an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower fails to deliver to Lender, within such ten (10) day period, a new or revised Insolvency Opinion, in form and substance, and from a source satisfactory to Lender and if the Loan has been Securitized, the Rating Agencies, to the effect that such breach does not negate or impair the opinion previously delivered to Lender, or (ii) any covenant contained in Article 7 hereof;

(e) if any representation or warranty of, or with respect to, Borrower, Borrower Principal, any SPE Component Entity, or any member, general partner, principal or beneficial owner of any of the foregoing, made herein, in any other Loan Document, or in any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the closing of the Loan or during the term of the Loan shall have been false or misleading in any material respect when made;

(f) if (i) Borrower, or any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall commence any case, proceeding or other action (A) under any Creditors Rights Laws, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days;

or (iii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action 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 for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if

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any) shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(g) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property, whether it be superior or junior in lien to the Mortgage;

(h) if the Property becomes subject to any mechanic's, materialman's or other Lien other than a Lien for any Taxes or Other Charges not then due and payable and the Lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of sixty (60) days;

(i) if any federal tax lien is filed against Borrower, any member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) or the Property and same is not discharged of record within sixty (60) days after same is filed;

(j) if a final non-appealable judgment is filed against Borrower in excess of \$500,000 which is not vacated or discharged within 45 days;

(k) intentionally deleted;

(l) if Borrower shall permit any event within its control to occur that would cause any material REA to terminate without notice or action by any party thereto or would entitle any party to terminate any material REA and the term thereof by giving notice to Borrower; or any material REA shall be surrendered, terminated or canceled for any reason or under any circumstance whatsoever except as provided for in such REA; or any term of any material REA shall be modified or supplemented in any material respect without Lender's prior written consent; or Borrower shall fail, within ten (10) Business Days after demand by Lender, to exercise its option to renew or extend the term of any material REA or shall fail or neglect to pursue diligently all actions necessary to exercise such renewal rights pursuant to such REA except as provided for in such REA; or

(m) if Borrower shall continue to be in default under any other term, covenant or condition of this Agreement or any of the Loan Documents (including, but not limited to, any guaranty or indemnity) for more than ten (10) days after notice from Lender in the case of any default which can be cured by the payment of a sum of money or for thirty (30) days after notice from Lender in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days.

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## SECTION 11.2. REMEDIES

(a) Upon the occurrence and during the continuance of an Event of Default (other than an Event of Default described in Section 11.1(f) above) and at any time thereafter (until such Event of Default is cured) Lender may, in addition to any other rights or remedies available to it pursuant to this Agreement and the other Loan Documents or at law or in equity, take such action, without notice or demand, that Lender deems advisable to protect and enforce its rights against Borrower and in the Property, including, without limitation, declaring the Debt to be immediately due and payable, and Lender may enforce or avail itself of any or all rights or remedies provided in the Loan Documents against Borrower and the Property, including, without limitation, all rights or remedies available at law or in equity; and upon any Event of Default described in Section 11.1(f) above, the Debt and all other obligations of Borrower hereunder and under the other Loan Documents shall immediately and automatically become due and payable, without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in any other Loan Document to the contrary notwithstanding.

(b) Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to Lender against Borrower under this Agreement or any of the other Loan Documents executed and delivered by, or applicable to, Borrower or at law or in equity may be exercised by Lender at any time and from time to time, whether or not all or any of the Debt shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Loan Documents with respect to the Property. Any such actions taken by Lender shall be cumulative and concurrent and may be pursued independently, singularly, successively, together or otherwise, at such time and in such order as Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by law, equity or contract or as set forth herein or in the other Loan Documents.

## ARTICLE 12 ENVIRONMENTAL PROVISIONS

### SECTION 12.1. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants, to its knowledge based upon an Environmental Report of the Property and information that Borrower knows or should reasonably have known, that: (a) there are no Hazardous Materials or underground storage tanks in, on, or under the Property, except those that are both (i) in compliance with Environmental Laws and with permits issued pursuant thereto (if such permits are required), if any, and (ii) either (A) in the case of Hazardous Materials, in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing pursuant to an Environmental Report; (b) there are no past, present or threatened Releases of Hazardous Materials in violation of any Environmental Law or which would require remediation by a Governmental Authority in, on, under or from the Property except as described in the Environmental Report; (c) there is no threat of any Release of Hazardous Materials migrating to the Property except as described in the Environmental Report; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection

with the Property except as described in the Environmental Report; (e) Borrower has not received any written notice or other communication from any Person relating to Hazardous Materials in, on, under or from the Property; and (f) Borrower has truthfully and fully provided to Lender, in writing, any and all information relating to material environmental conditions in, on, under or from

the Property known to Borrower or contained in Borrower's files and records, including but not limited to any reports relating to Hazardous Materials in, on, under or migrating to or from the Property and/or to the environmental condition of the Property.

#### SECTION 12.2. ENVIRONMENTAL COVENANTS

Borrower covenants and agrees that so long as Borrower owns, manages, is in possession of, or otherwise controls the operation of the Property: (a) all uses and operations on or of the Property, whether by Borrower or any other Person, shall be in material compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases (in violation of any Environmental Laws) of Hazardous Materials in, on, under, or from the Property; (c) there shall be no Hazardous Materials in, on, or under the Property, except those that are both (i) in material compliance with all Environmental Laws and with permits issued pursuant thereto, if and to the extent required, and (ii) (A) in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing; (d) Borrower shall keep the Property free and clear of all Environmental Liens; (e) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Section 12.4 below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (f) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property, pursuant to any reasonable written request of Lender, upon Lender's reasonable belief that the Property is not in full compliance with all Environmental Laws, and share with Lender the reports and other results thereof, and Lender and other Indemnified Parties shall be entitled to rely on such reports and other results thereof; (g) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (i) reasonably effectuate remediation of any Hazardous Materials in, on, under or from the Property; and (ii) comply in all material respects with any Environmental Law; (h) Borrower shall not allow any tenant or other user of the Property to violate any Environmental Law; and (i) Borrower shall immediately notify Lender in writing after it has become aware of (A) any presence or Release or threatened Release of Hazardous Materials in, on, under, from or migrating towards the Property; (B) any material non-compliance with any Environmental Laws related in any way to the Property; (C) any actual or potential Environmental Lien against the Property; (D) any required or proposed remediation of environmental conditions relating to the Property; and (E) any written notice or other communication of which Borrower becomes aware from any source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials.

#### SECTION 12.3. LENDER'S RIGHTS

Lender and any other Person designated by Lender, including but not limited to any representative of a Governmental Authority, and any environmental consultant, and any receiver appointed by any court of competent jurisdiction, shall have the right, but not the obligation, to enter upon the Property at all reasonable times (upon reasonable notice) to assess any and all

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aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lender's reasonable discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Borrower shall cooperate with and provide access to Lender and any such person or entity designated by Lender.

#### SECTION 12.4. OPERATIONS AND MAINTENANCE PROGRAMS

If recommended by the Environmental Report or any other environmental assessment or audit of the Property, Borrower shall establish and comply with an operations and maintenance program with respect to the Property, in form and



substance reasonably acceptable to Lender, prepared by an environmental consultant reasonably acceptable to Lender, which program shall address any asbestos-containing material or lead based paint that may now or in the future be detected at or on the Property. Without limiting the generality of the preceding sentence, Lender may require (a) periodic notices or reports to Lender in form, substance and at such intervals as Lender may specify, (b) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters, (c) at Borrower's sole expense, supplemental examination of the Property by consultants specified by Lender, (d) access to the Property by Lender, its agents or servicer, to review and assess the environmental condition of the Property and Borrower's compliance with any operations and maintenance program, and (e) variation of the operations and maintenance program in response to the reports provided by any such consultants.

#### SECTION 12.5. ENVIRONMENTAL DEFINITIONS

"ENVIRONMENTAL LAW" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other government directives or requirements, as well as common law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, that apply to Borrower or the Property and relate to Hazardous Materials or protection of human health or the environment. "ENVIRONMENTAL LIENS" means all Liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other Person. "ENVIRONMENTAL REPORT" means the written reports resulting from the environmental site assessments of the Property delivered to Lender in connection with the Loan. "HAZARDOUS MATERIALS" shall mean petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls 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 Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a "hazardous substance," "hazardous material", "hazardous waste", "toxic substance", "toxic pollutant", "contaminant", or "pollutant" within the meaning of any Environmental Law. "RELEASE" of any Hazardous Materials includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

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#### SECTION 12.6. INDEMNIFICATION

(a) Borrower and Borrower Principal covenant and agree at their sole cost and expense, to protect, defend, indemnify, release and hold Indemnified Parties harmless from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (i) any presence of any Hazardous Materials in, on, above, or under the Property; (ii) any past, present or threatened Release of Hazardous Materials in, on, above, under or from the Property; (iii) any activity by Borrower, any Person affiliated with Borrower, and any Tenant or other user of the Property in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other Release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Hazardous Materials at any time located in, under, on or above the Property or any actual or proposed remediation of any Hazardous Materials at any time located in, under, on or above the Property, whether or not such remediation is voluntary or pursuant to court or administrative order, including but not limited to any removal, remedial or corrective action; (iv) any past, present or threatened non-compliance or violations of any

Environmental Laws (or permits issued pursuant to any Environmental Law) in connection with the Property or operations thereon, including but not limited to any failure by Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property to comply with any order of any Governmental Authority in connection with any Environmental Laws; (v) the imposition, recording or filing or the threatened imposition, recording or filing of any Environmental Lien encumbering the Property; (vi) any acts of Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property in (A) arranging for disposal or treatment, or arranging with a transporter for transport for disposal or treatment, of Hazardous Materials at any facility or incineration vessel containing such or similar Hazardous Materials or (B) accepting any Hazardous Materials for transport to disposal or treatment facilities, incineration vessels or sites from which there is a Release, or a threatened Release of any Hazardous Substance which causes the incurrence of costs for remediation; and (vii) any misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any covenants or other obligations pursuant to this Agreement relating to environmental matters (the matters listed in clauses (i) through (vii) above are each hereinafter referred to as an "ENVIRONMENTAL PROBLEM".

(b) Upon written request by any Indemnified Party, Borrower and Borrower Principal shall defend same (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their reasonable discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Borrower and Borrower Principal shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

(c) Notwithstanding the foregoing, Borrower shall have no liability for any Losses imposed upon or incurred by or asserted against any Indemnified Parties and described in

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subsection (a) above to the extent that Borrower can conclusively prove both that such Losses were caused solely by actions, conditions or events that occurred after the date that Lender (or any purchaser at a foreclosure sale) actually acquired title to the Property and that such Losses were not caused by the direct or indirect actions of Borrower, Borrower Principal, or any partner, member, principal, officer, director, trustee or manager of Borrower or Borrower Principal or any employee, agent, contractor or Affiliate of Borrower or Borrower Principal. The obligations and liabilities of Borrower and Borrower Principal under this Section 12.6 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, provided however, that in the event (i) the Debt is paid in full in the ordinary course, (ii) Borrower delivers to Lender a Phase I environmental site assessment with respect to the Property which concludes that the Property does not contain any Hazardous Materials and is not subject to any significant risk of contamination from any off site Hazardous Materials in violation of the representations, warranties, and covenants set forth in this Article 12 Agreement, as determined by Lender, (iii) no Event of Default exists and is continuing, (iv) Lender has not exercised any of its remedies under Section 11.2 hereof to obtain an entry of a judgment of foreclosure, exercise any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, (v) as of the date of determination, all of the representations and warranties contained in this Article 12 are true and correct, as determined by Lender and (vi) there has been no change, between the date hereof and the date the Loan is paid in full, in any Environmental Law which would impose liability on a mortgagee or lender with respect to any Environmental Problem notwithstanding the payment in full of the Loan, Borrower and Borrower Principal shall be

released from its obligations under this Agreement on the third (3rd) anniversary of the date on which items (i)-(vi) above are satisfied.

ARTICLE 13  
SECONDARY MARKET

SECTION 13.1. TRANSFER OF LOAN

Lender may, at any time, sell, transfer or assign the Loan Documents, or grant participations therein ("PARTICIPATIONS") or syndicate the Loan ("SYNDICATION") or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement ("SECURITIES") (a Syndication or the issuance of Participations and/or Securities, a "SECURITIZATION").

SECTION 13.2. DELEGATION OF SERVICING

At the option of Lender, the Loan may be serviced by a servicer/trustee selected by Lender and Lender may delegate all or any portion of its responsibilities under this Agreement and the other Loan Documents to such servicer/trustee pursuant to a servicing agreement between Lender and such servicer/trustee.

SECTION 13.3. DISSEMINATION OF INFORMATION

Lender may forward to each purchaser, transferee, assignee, or servicer of, and each participant, or investor in, the Loan, or any Participations and/or Securities or any of their

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respective successors (collectively, the "INVESTOR") or any Rating Agency rating the Loan, or any Participations and/or Securities, each prospective Investor, and any organization maintaining databases on the underwriting and performance of commercial mortgage loans, all documents and information which Lender now has or may hereafter acquire relating to the Debt and to Borrower, any managing member or general partner thereof, Borrower Principal, any SPE Component Entity (if any) and the Property, including financial statements, whether furnished by Borrower or otherwise, as Lender determines necessary or desirable. Borrower irrevocably waives any and all rights it may have under applicable Legal Requirements to prohibit such disclosure, including but not limited to any right of privacy. In the event of a conflict between any of the provisions of this Section 13.3 and paragraph 5 of that certain letter agreement dated as of August 25, 2003 by Banc of America Securities LLC and accepted and agreed to by Borrower Principal (the "ADVISORY AGREEMENT") (the provisions of which are set forth on Schedule 4, attached hereto) relating to, among other things, confidentiality and the dissemination of certain confidential information, the provisions of the Advisory Agreement shall control.

SECTION 13.4. COOPERATION

At the request of the holder of the Note and, to the extent not already required to be provided by Borrower under this Agreement, Borrower and Borrower Principal shall use reasonable efforts to provide updates of the information (i) delivered by Borrower under Section 3.20 hereof or (ii) required to be delivered by Borrower under Article 5 hereof, including, without limitation, to:

- (a) provide updated financial, budget and other information with respect to the Property, Borrower, Borrower Principal and Manager (all of the foregoing being referred to as the "PROVIDED INFORMATION");
- (b) make changes to the organizational documents of Borrower, any SPE Component Entity and their respective principals;
- (c) at Borrower's expense, cause counsel to render or update existing opinion letters as to enforceability and non-consolidation, which may

be relied upon by the holder of the Note, the Rating Agencies and their respective counsel, which shall be dated as of the closing date of the Securitization;

(d) at Lender's sole cost and expense, permit site inspections in accordance with the terms of this Agreement, appraisals, market studies and other due diligence investigations of the Property, as may be reasonably requested by the holder of the Note or the Rating Agencies or as may be necessary or appropriate in connection with the Securitization;

(e) intentionally deleted;

(f) execute such amendments to the Loan Documents as may be requested by the holder of the Note or the Rating Agencies or otherwise to effect the Securitization including, without limitation, bifurcation of the Loan into two or more components and/or separate notes and/or creating a senior/subordinate note structure; provided, however, that Borrower shall not be required to modify or amend any Loan Document if such modification or amendment would

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(i) change the interest rate, the stated maturity or the amortization of principal set forth in the Note, except in connection with a bifurcation of the Loan which may result in varying fixed interest rates and amortization schedules, but which shall have the same initial weighted average coupon of the original Note, or (ii) in the reasonable judgment of Borrower, modify or amend any other material economic term of the Loan, or (iii) in the reasonable judgment of Borrower, materially increase Borrower's obligations and liabilities under the Loan Documents;

(g) deliver to Lender and/or any Rating Agency one or more certificates executed by an officer of Borrower certifying as to the accuracy, as of the closing date of the Securitization, of all representations made by Borrower in the Loan Documents as of the Closing Date or, if such representations are no longer accurate, certifying as to what modifications to the representations would be required to make such representations accurate as of the closing date of the Securitization;

(h) have reasonably appropriate personnel participate in a bank meeting and/or presentation for the Rating Agencies or Investors;

(i) cooperate with and assist Lender in obtaining ratings of the Securities from two (2) or more of the Rating Agencies; and

(j) if required by any Rating Agency, deliver, at Borrower's sole cost and expense and within fifteen (15) Business Days of Lender's request therefore, (1) opinions relating to certain aspects of federal and Delaware law and Borrower's status as a single member Delaware limited liability company thereunder and (2) an Insolvency Opinion, which such opinions shall be given by a law firm acceptable to such Rating Agency and shall otherwise be in form and substance acceptable to such Rating Agency. Lender hereby acknowledges that Borrower may deliver such opinions in one consolidated opinion that, together with the Loan, addresses other Loans (made by Lender) relating to Affiliates of Borrower, provided that such opinion adequately identifies Borrower, the Property and other applicable matters relating to the Loan. In addition, Borrower shall make any changes to its organizational documents to the extent required in connection with the issuance of such opinions, provided that such changes shall not result in an adverse economic effect to Borrower.

All reasonable third party costs and expenses incurred by Borrower in connection with Borrower's complying with requests made under this Section 13.4 shall be paid by Borrower. Lender shall be responsible for all of its out-of-pocket costs in connection with a securitization.

In the event that Borrower requests any consent or approval hereunder

and the provisions of this Agreement or any Loan Documents require the receipt of written confirmation from each Rating Agency with respect to the rating on the Securities, or, in accordance with the terms of the transaction documents relating to a Securitization, such a rating confirmation is required in order for the consent of Lender to be given, Borrower shall pay all of the costs and expenses of Lender, Lender's servicer and each Rating Agency in connection therewith, and, if applicable, shall pay any fees imposed by any Rating Agency as a condition to the delivery of such confirmation. Lender agrees, upon request, to use commercially reasonable efforts to cooperate with Borrower and to facilitate Borrower's efforts to obtain any such rating confirmation as required hereunder, which cooperation shall include supplying the Rating Agencies with copies

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of reports, documents and other information and materials provided to Lender by Borrower, provided however, that in no event shall (1) Lender be required to incur any costs or expenses (other than de minimus costs or expenses) in connection with such cooperation or (2) Lender's agreement hereunder to cooperate with Borrower in obtaining a rating confirmation obligate Lender to institute (or threaten to institute) or participate in (or threaten to participate in) any litigation, suits, or proceedings at law or in equity against any Rating Agency in connection with Borrower's efforts to obtain such rating confirmation.

#### SECTION 13.5. SECURITIZATION INDEMNIFICATION

(a) Borrower understands that certain of the Provided Information may be included in disclosure documents in connection with the Securitization, including, without limitation, a prospectus, prospectus supplement, offering memorandum or private placement memorandum (each, a "DISCLOSURE DOCUMENT") and may also be included in filings with the Securities and Exchange Commission pursuant to the Securities Act or the Exchange Act, or provided or made available to investors or prospective investors in the Securities, the Rating Agencies, and service providers relating to the Securitization. In the event that the Disclosure Document is required to be revised prior to the sale of all Securities, Borrower will cooperate with the holder of the Note in updating the Disclosure Document by providing all current information required to be delivered by Borrower under Article 5 hereof necessary to keep the Disclosure Document accurate and complete in all material respects.

(b) Borrower agrees to provide in connection with each of (i) a preliminary and a final offering memorandum or private placement memorandum or similar document (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or (ii) a preliminary and final prospectus or prospectus supplement, as applicable, an indemnification certificate (A) indemnifying Lender (and for purposes of this Section 13.5, Lender hereunder shall include its officers and directors) and the Affiliate of Lender that (i) has filed the registration statement, if any, relating to the Securitization and/or (ii) which is acting as issuer, depositor, sponsor and/or a similar capacity with respect to the Securitization (any Person described in (i) or (ii), an "ISSUER PERSON") and each director and officer of any Issuer Person, and each Person or entity who controls any Issuer Person within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the "ISSUER GROUP") for any Losses to which Lender or the Issuer Group may become subject insofar as the Losses arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or necessary in order to make the statements in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or in light of the circumstances under which they were made, not misleading (collectively the "SECURITIES LIABILITIES") and (B)

agreeing to reimburse Lender and the Issuer Group for any legal or other expenses reasonably incurred by Lender and Issuer Group in connection with investigating or defending the Securities Liabilities; provided, however, that Borrower will be liable in any such case under clauses (A) or (B) above only to the extent that any such Securities Liabilities arise out of or is based upon any such untrue statement or omission made therein in

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reliance upon and in conformity with information furnished to Lender or any member of the Issuer Group by or on behalf of Borrower in connection with the Provided Information. This indemnity agreement will be in addition to any liability which Borrower may otherwise have. Moreover, the indemnification provided for in Clauses (A) and (B) above shall be effective in the event an indemnification certificate certifying that Borrower has carefully examined any preliminary or a final offering memorandum described above or prospectus or other document (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan), as applicable, including without limitation, the sections entitled "Special Considerations," and/or "Risk Factors," and "Certain Legal Aspects of the Mortgage Loan," or similar sections, and all sections relating to Borrower, Borrower Principal, Manager, their Affiliates, the Loan, the Loan Documents and the Property, and any risks or special considerations relating thereto, and that, to the best of Borrower's knowledge, such sections (and any other sections reasonably requested) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading has been requested by Lender and has not been provided by Borrower and shall be applicable based on information previously provided by Borrower or its Affiliates if Borrower does not provide such requested indemnification certificate.

(c) In connection with filings under the Exchange Act or any information provided to holders of Securities on an ongoing basis, Borrower agrees to indemnify (i) Lender and the Issuer Group for Losses to which Lender or the Issuer Group may become subject insofar as the Securities Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in light of the circumstances under which they were made not misleading and (ii) reimburse Lender or the Issuer Group for any legal or other expenses reasonably incurred by Lender or the Issuer Group in connection with defending or investigating the Securities Liabilities.

(d) Promptly after receipt by an indemnified party under this Section 13.5 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 13.5, notify the indemnifying party in writing of the commencement thereof, but the omission to so notify the indemnifying party will not relieve the indemnifying party from any liability which the indemnifying party may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the indemnifying party. In the event that any action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. After notice from the indemnifying party to such indemnified party under this Section 13.5 the indemnifying party shall be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there are any legal defenses available to it and/or other indemnified parties that are different

from or additional to those available to the

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indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. The indemnifying party shall not be liable for the expenses of more than one such separate counsel unless an indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to another indemnified party.

(e) In order to provide for just and equitable contribution in circumstances in which the indemnity agreements provided for in Section 13.5(c) or Section 13.5(d) is or are for any reason held to be unenforceable by an indemnified party in respect of any losses, claims, damages or liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 13.5(c) or Section 13.5(d), the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages or liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified party's and Borrower's relative knowledge and access to information concerning the matter with respect to which claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. Lender and Borrower hereby agree that it would not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

(f) The liabilities and obligations of Borrower, and Lender under this Section 13.5 shall survive the satisfaction of this Agreement and the satisfaction and discharge of the Debt.

#### SECTION 13.6. INTENTIONALLY DELETED

### ARTICLE 14 INDEMNIFICATIONS

#### SECTION 14.1. GENERAL INDEMNIFICATION

Borrower shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Applicable Legal Requirements; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (f) the holding or investing of the Reserve

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Accounts or the performance of the Required Work, or Additional Replacements, or (g) the payment of any commission, charge or brokerage fee to anyone which may

be payable in connection with the funding of the Loan (collectively, the "INDEMNIFIED LIABILITIES"); provided, however, that Borrower shall not have any obligation to Lender hereunder to the extent that such Indemnified Liabilities arise from the gross negligence, illegal acts, fraud or willful misconduct of Lender. To the extent that the undertaking to indemnify, defend and hold harmless set forth in the preceding sentence may be unenforceable because it violates any law or public policy, Borrower shall pay the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Lender.

#### SECTION 14.2. MORTGAGE AND INTANGIBLE TAX INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of the Mortgage, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

#### SECTION 14.3. ERISA INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of 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 discretion) that Lender may incur, directly or indirectly, as a result of a default under Section 4.8 or Section 5.18 of this Agreement.

#### SECTION 14.4. SURVIVAL

The obligations and liabilities of Borrower under this Article 14 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage.

### ARTICLE 15 EXCULPATION

#### SECTION 15.1. EXCULPATION

(a) Except as otherwise provided herein or in the other Loan Documents, Lender shall not enforce the liability and obligation of Borrower or Borrower Principal, as applicable, to perform and observe the obligations contained herein or in the other Loan Documents by any action or proceeding wherein a money judgment shall be sought against Borrower or Borrower Principal, except that Lender may bring a foreclosure action, action for specific performance or other appropriate action or proceeding to enable Lender to enforce and realize upon this Agreement, the Note,

the Mortgage and the other Loan Documents, and the interest in the Property, the Rents and any other collateral given to Lender created by this Agreement, the Note, the Mortgage and the other Loan Documents; provided, however, that any judgment in any such action or proceeding shall be enforceable against Borrower only to the extent of Borrower's interest in the Property, in the Rents and in any other collateral given to Lender. Lender, by accepting this Agreement, the Note, the Mortgage and the other Loan Documents, agrees that it shall not, except as otherwise provided in this Section 15.1, sue for, seek or demand any deficiency judgment against Borrower or Borrower Principal in any such action or proceeding, under or by reason of or under or in connection with this Agreement, the Note, the Mortgage or the other Loan Documents. The provisions of this



Section 15.1 shall not, however, (i) constitute a waiver, release or impairment of any obligation evidenced or secured by this Agreement, the Note, the Mortgage or the other Loan Documents; (ii) impair the right of Lender to name Borrower or Borrower Principal as a party defendant in any action or suit for judicial foreclosure and sale under this Agreement and the Mortgage; (iii) affect the validity or enforceability of any indemnity (including, without limitation, those contained in Section 12.6, with respect to Borrower or Borrower Principal, Section 13.5, with respect to Borrower, and Article 14 of this Agreement, with respect to Borrower), guaranty, master lease or similar instrument made in connection with this Agreement, the Note, the Mortgage and the other Loan Documents; (iv) impair the right of Lender to obtain the appointment of a receiver; (v) impair the enforcement of the assignment of leases provisions contained in the Mortgage; or (vi) impair the right of Lender to obtain a deficiency judgment or other judgment on the Note against Borrower or Borrower Principal if necessary to obtain any Insurance Proceeds or Awards to which Lender would otherwise be entitled under this Agreement; provided however, Lender shall only enforce such judgment to the extent of the Insurance Proceeds and/or Awards.

(b) Notwithstanding the provisions of this Section 15.1 to the contrary:

(1) Borrower and Borrower Principal shall be personally liable to Lender on a joint and several basis for Losses due to:

(i) fraud or intentional misrepresentation by Borrower, Borrower Principal or any other Affiliate of Borrower or Borrower Principal in connection with the execution and the delivery of this Agreement, the Note, the Mortgage, any of the other Loan Documents, or any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the closing of the Loan or during the term of the Loan;

(ii) Borrower's misapplication or misappropriation of Rents received by Borrower after the occurrence and during the continuance of an Event of Default;

(iii) Borrower's misapplication or misappropriation of tenant security deposits or Rents collected in advance and which have not been applied to the operation of the Property;

(iv) the misapplication or the misappropriation of Insurance Proceeds or Awards;

(v) Borrower's failure to pay Taxes, Other Charges (except to the extent that sums sufficient to pay such amounts have been deposited in escrow with Lender pursuant

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to the terms hereof and there exists no impediment to Lender's utilization thereof) beyond any applicable notice and cure periods specified therein;

(vi) any act of actual intentional physical waste or arson by Borrower, any principal, Affiliate, member or general partner thereof or by Borrower Principal, any principal, Affiliate, member or general partner thereof; or

(vii) the portion of any Rent paid by any Tenant more than thirty (30) days in advance that would have been payable by such Tenant from and after the occurrence of an Event of Default; and

(2) Borrower Principal shall be personally liable to Lender for Losses due to the Property, or any part thereof, becoming an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower

Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding. Additionally, Borrower Principal shall be personally liable to Lender for Losses in the event of a breach by Borrower or SPE Component Entity of any of the covenants set forth in Article 6, except to the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d).

(c) Notwithstanding the foregoing, the agreement of Lender not to pursue recourse liability as set forth in subsection (a) above SHALL BECOME NULL AND VOID and shall be of no further force and effect and the Debt shall become fully recourse (1) to Borrower and Borrower Principal, jointly and severally, in the event of a breach of any of the covenants set forth in Article 7 hereof and (2) to Borrower in the event (i) of a breach by Borrower or SPE Component Entity of any of the covenants set forth in Article 6, except the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d) hereof or (ii) the Property or any part thereof shall become an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding.

(d) Nothing herein shall be deemed to be a waiver of any right which Lender may have under Section 506(a), 506(b), 1111(b) or any other provision of the U.S. Bankruptcy Code to file a claim for the full amount of the indebtedness secured by the Mortgage or to require that all collateral shall continue to secure all of the indebtedness owing to Lender in accordance with this Agreement, the Note, the Mortgage or the other Loan Documents.

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ARTICLE 16  
NOTICES

SECTION 16.1. NOTICES

All notices, consents, approvals and requests required or permitted hereunder or under any other Loan Document shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested, (b) expedited prepaid overnight delivery service, either commercial or United States Postal Service, with proof of attempted delivery, or by (c) telecopier (with answer back acknowledged provided an additional notice is given pursuant to subsection (b) above), addressed as follows (or at such other address and Person as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for in this Section):

If to Lender: To the Lender notice addresses set forth on Schedule 1, attached hereto.

If to Borrower: c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Attention: President  
Facsimile No.: (312) 279-1710

With a copy to: c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Attention: General Counsel  
Facsimile No.: (312) 279-1715

and to: Katten Muchin Zavis Rosenman  
525 West Monroe Street, Suite 1600  
Chicago, Illinois 60661  
Attention: Daniel J. Perlman, Esq.  
Facsimile No.: (312) 902-1061

A notice shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day; or in the case of expedited prepaid delivery and telecopy, upon the first attempted delivery on a Business Day.

ARTICLE 17  
FURTHER ASSURANCES

SECTION 17.1. REPLACEMENT DOCUMENTS

Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the

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case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

SECTION 17.2. RECORDING OF MORTGAGE, ETC.

Borrower forthwith upon the execution and delivery of the Mortgage and thereafter, from time to time, will cause the Mortgage and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Mortgage, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Mortgage, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

SECTION 17.3. FURTHER ACTS, ETC.

Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, deeds of trust, mortgages, assignments, security agreements, control agreements, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Agreement or for filing, registering or recording the Mortgage, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and

deliver, hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements and financing statement amendments to evidence more effectively, perfect and maintain the priority of the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation, such rights and remedies available to Lender pursuant to this Section 17.3.

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#### SECTION 17.4. CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP LAWS

(a) If any law is enacted or adopted or amended after the date of this Agreement which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable without any prepayment premium.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of the Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable without any prepayment premium.

If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Mortgage, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

#### SECTION 17.5. EXPENSES

Borrower covenants and agrees to pay or, if Borrower fails to pay, to reimburse, Lender upon receipt of written notice from Lender for all reasonable costs and expenses (including reasonable, actual attorneys' fees and disbursements reasonably incurred by Lender in accordance with this Agreement in connection with (a) the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby and all the costs of furnishing all opinions by counsel for Borrower (including without limitation any opinions requested by Lender as to any legal matters arising under this Agreement or the other Loan Documents with respect to the Property); (b) Borrower's ongoing performance of and compliance with Borrower's respective agreements and covenants contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date, including, without limitation, confirming compliance with environmental and insurance requirements; (c) following a request by Borrower, Lender's ongoing performance and compliance with all agreements and conditions contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date; (d) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Agreement and the other Loan Documents and any other documents or matters requested by Lender; (e) securing Borrower's compliance with any requests made pursuant to the provisions of this Agreement; (f) the filing and recording fees and expenses, title insurance and reasonable fees and expenses of counsel for providing to Lender all required legal opinions, and other similar expenses incurred in creating and

perfecting the Lien in favor of Lender pursuant to this

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Agreement and the other Loan Documents; (g) enforcing or preserving any rights, in response to third party claims or the prosecuting or defending of any action or proceeding or other litigation, in each case against, under or affecting Borrower, this Agreement, the other Loan Documents, the Property, or any other security given for the Loan; and (h) enforcing any obligations of or collecting any payments due from Borrower under this Agreement, the other Loan Documents or with respect to the Property or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or of any insolvency or bankruptcy proceedings; provided, however, that Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of Lender.

ARTICLE 18  
WAIVERS

SECTION 18.1. REMEDIES CUMULATIVE; WAIVERS

The rights, powers and remedies of Lender under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which Lender may have against Borrower or Borrower Principal pursuant to this Agreement or the other Loan Documents, or existing at law or in equity or otherwise. Lender's rights, powers and remedies may be pursued singularly, concurrently or otherwise, at such time and in such order as Lender may determine in Lender's sole discretion. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

SECTION 18.2. MODIFICATION, WAIVER IN WRITING

No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, or of the Note, or of any other Loan Document, nor consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on Borrower, shall entitle Borrower to any other or future notice or demand in the same, similar or other circumstances.

SECTION 18.3. DELAY NOT A WAIVER

Neither any failure nor any delay on the part of Lender in insisting upon strict performance of any term, condition, covenant or agreement, or exercising any right, power, remedy or privilege hereunder, or under the Note or under any other Loan Document, or any other instrument given as security therefor, shall operate as or constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other future exercise, or the exercise of any other right, power, remedy or privilege. In particular, and not by way of limitation, by accepting

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payment after the due date of any amount payable under this Agreement, the Note or any other Loan Document, Lender shall not be deemed to have waived any right either to require prompt payment when due of all other amounts due under this

Agreement, the Note or the other Loan Documents, or to declare a default for failure to effect prompt payment of any such other amount.

#### SECTION 18.4. TRIAL BY JURY

BORROWER, BORROWER PRINCIPAL AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER, BORROWER PRINCIPAL AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER, BORROWER PRINCIPAL AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER, BORROWER PRINCIPAL AND LENDER.

#### SECTION 18.5. WAIVER OF NOTICE

Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Agreement or the other Loan Documents specifically and expressly provide for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Agreement or the other Loan Documents do not specifically and expressly provide for the giving of notice by Lender to Borrower.

#### SECTION 18.6. REMEDIES OF BORROWER

In the event that a claim or adjudication is made that Lender or its agents have acted unreasonably or unreasonably delayed acting in any case where by law or under this Agreement or the other Loan Documents, Lender or such agent, as the case may be, has an obligation to act reasonably or promptly, Borrower agrees that neither Lender nor its agents shall be liable for any monetary damages, and Borrower's sole remedies shall be limited to commencing an action seeking injunctive relief or declaratory judgment. The parties hereto agree that any action or proceeding to determine whether Lender has acted reasonably shall be determined by an action seeking declaratory judgment. Lender agrees that, in such event, it shall cooperate in expediting any action seeking injunctive relief or declaratory judgment.

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#### SECTION 18.7. WAIVER OF MARSHALLING OF ASSETS

To the fullest extent permitted by law, Borrower, for itself and its successors and assigns, waives all rights to a marshalling of the assets of Borrower, Borrower's partners and others with interests in Borrower, and of the Property, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of the Property for the collection of the Debt without any prior or different resort for collection or of the right of Lender to the payment of the Debt out of the net proceeds of the Property in preference to every other claimant whatsoever.

#### SECTION 18.8. WAIVER OF STATUTE OF LIMITATIONS

Borrower hereby expressly waives and releases, to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

#### SECTION 18.9. WAIVER OF COUNTERCLAIM

Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Lender or its agents.

ARTICLE 19  
GOVERNING LAW

SECTION 19.1. CHOICE OF LAW

This Agreement shall be deemed to be a contract entered into pursuant to the laws of the State of New York and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of New York, provided however, (a) that with respect to the creation, perfection, priority and enforcement of any Lien created by the Loan Documents, and the determination of deficiency judgments, the laws of the state where the Property is located shall apply, and (b) with respect to the security interest in each of the Reserve Accounts and the Lockbox Account, the laws of the state where each such account is located shall apply.

SECTION 19.2. SEVERABILITY

Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

SECTION 19.3. PREFERENCES

Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by Borrower to any portion of the obligations of Borrower hereunder. To the

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extent Borrower makes a payment or payments to Lender, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Creditors Rights Laws, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the obligations hereunder or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by Lender.

ARTICLE 20  
MISCELLANEOUS

SECTION 20.1. SURVIVAL

This Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by Lender of the Loan and the execution and delivery to Lender of the Note, and shall continue in full force and effect so long as all or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth herein or in the other Loan Documents. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Agreement, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and assigns of Lender.

SECTION 20.2. LENDER'S DISCRETION

Whenever pursuant to this Agreement, Lender exercises any right given

to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole discretion of Lender and shall be final and conclusive.

#### SECTION 20.3. HEADINGS

The Article and/or Section headings and the Table of Contents in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

#### SECTION 20.4. COST OF ENFORCEMENT

In the event (a) that the Mortgage is foreclosed in whole or in part, (b) of the bankruptcy, insolvency, rehabilitation or other similar proceeding in respect of Borrower or any of its constituent Persons or an assignment by Borrower or any of its constituent Persons for the benefit of its creditors, or (c) Lender exercises any of its other remedies under this Agreement or any of the other Loan Documents, Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including attorneys' fees and costs, incurred by Lender or Borrower in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, together with all required service or use taxes.

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#### SECTION 20.5. SCHEDULES INCORPORATED

The Schedules annexed hereto are hereby incorporated herein as a part of this Agreement with the same effect as if set forth in the body hereof.

#### SECTION 20.6. OFFSETS, COUNTERCLAIMS AND DEFENSES

Any assignee of Lender's interest in and to this Agreement, the Note and the other Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to such documents which Borrower may otherwise have against any assignor of such documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Borrower in any action or proceeding brought by any such assignee upon such documents and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Borrower.

#### SECTION 20.7. NO JOINT VENTURE OR PARTNERSHIP; NO THIRD PARTY BENEFICIARIES

(a) Borrower and Lender intend that the relationships created hereunder and under the other Loan Documents be solely that of borrower and lender. Nothing herein or therein is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender nor to grant Lender any interest in the Property other than that of mortgagee, beneficiary or lender.

(b) This Agreement and the other Loan Documents are solely for the benefit of Lender and Borrower and nothing contained in this Agreement or the other Loan Documents shall be deemed to confer upon anyone other than Lender and Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so.



(c) The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

(d) Notwithstanding anything to the contrary contained herein, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(e) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Agreement, the Mortgage, the Note or the other

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Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

(f) Borrower recognizes and acknowledges that in accepting this Agreement, the Note, the Mortgage and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the representations and warranties set forth in Article 4 of this Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Agreement, the Note, the Mortgage and the other Loan Documents in the absence of the warranties and representations as set forth in Article 4 of this Agreement.

#### SECTION 20.8. PUBLICITY

All news releases, publicity or advertising by Borrower or its Affiliates through any media intended to reach the general public which refers to the Loan, Lender, Banc of America Securities LLC, or any of their Affiliates shall be subject to the prior written approval of Lender, not to be unreasonably withheld, provided however, that Lender's consent shall not be required in connection with any such news releases, publicity or advertising by Borrower or its Affiliates to the extent Borrower or its Affiliates are required to make such news releases pursuant to applicable Legal Requirements. Lender shall be permitted to make any news, releases, publicity or advertising by Lender or its Affiliates through any media intended to reach the general public which refers to the Loan, the Property, Borrower, Borrower Principal and their respective Affiliates without the approval of Borrower or any such Persons. Borrower also agrees that Lender may share any information pertaining to the Loan with Bank of America Corporation, including its bank subsidiaries, Banc of America Securities LLC and any other Affiliates of the foregoing, in connection with the sale or transfer of the Loan or any Participations and/or Securities created. In the event of a conflict between any of the provisions of this Section 20.8 and paragraph 5 of the Advisory Agreement, the applicable provisions of the Advisory Agreement shall control.

#### SECTION 20.9. CONFLICT; CONSTRUCTION OF DOCUMENTS; RELIANCE

In the event of any conflict between the provisions of this Agreement and any of the other Loan Documents, the provisions of this Agreement shall control. The parties hereto acknowledge that they were represented by competent

counsel in connection with the negotiation, drafting and execution of the Loan Documents and that such Loan Documents shall not be subject to the principle of construing their meaning against the party which drafted same. Borrower acknowledges that, with respect to the Loan, Borrower shall rely solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Lender or any parent, subsidiary or Affiliate of Lender. Lender shall not be subject to any limitation whatsoever in the exercise of any rights or remedies available to it under any of the Loan Documents or any other agreements or

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instruments which govern the Loan by virtue of the ownership by it or any parent, subsidiary or Affiliate of Lender of any equity interest any of them may acquire in Borrower, and Borrower hereby irrevocably waives the right to raise any defense or take any action on the basis of the foregoing with respect to Lender's exercise of any such rights or remedies. Borrower acknowledges that Lender engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Borrower or its Affiliates.

#### SECTION 20.10. ENTIRE AGREEMENT

This Agreement and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written between Borrower and Lender are superseded by the terms of this Agreement and the other Loan Documents.

#### SECTION 20.11. TAX DISCLOSURE

Notwithstanding anything herein to the contrary, except as reasonably necessary to comply with applicable securities laws, each party (and each employee, representative or other agent of each party) hereto may disclose to any and all persons, without limitation of any kind, any information with respect to the United States federal income "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are provided to such parties (or their representatives) relating to such tax treatment and tax structure; provided that with respect to any document or similar item that in either case contains information concerning the tax treatment or tax structure of the transaction as well as other information, this sentence shall only apply to such portions of the document or similar item that relate to the United States federal income tax treatment or tax structure of the transactions contemplated hereby.

#### SECTION 20.12. EXECUTION BY BORROWER PRINCIPAL

Borrower Principal is executing this Agreement solely for the purpose of (a) making the representations and warranties applicable to Borrower Principal contained in Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31, 4.39, and 4.40 of this Agreement, and (b) agreeing to the terms, covenants and conditions applicable to Borrower Principal contained in Sections 9.8, 12.6, 13.4, 15.1(b), 15.1(c), 18.4, and 18.10.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

BORROWER:

\_\_\_\_\_, a

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BORROWER PRINCIPAL:

Acknowledged and agreed to with respect to its obligations set forth in Section 20.12 hereof:

\_\_\_\_\_, a

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LENDER:

[BANK OF AMERICA, N.A.,] [MORGAN STANLEY MORTGAGE CAPITAL INC.] [WELLS FARGO BANK, NATIONAL ASSOCIATION]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[[LOCKBOX BANK:]]

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ACKNOWLEDGED AND AGREED TO WITH RESPECT TO ITS OBLIGATIONS SET FORTH IN ARTICLE 10 HEREOF:

\_\_\_\_\_, a

\_\_\_\_\_

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_]

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EXHIBIT A

RENT DIRECTION LETTER

EXHIBIT B

BORROWER EQUITY OWNERSHIP STRUCTURE

EXHIBIT C [RELEASE PARCEL PROPERTIES ONLY]

(OUT PARCEL)

(see attached)

SCHEDULE 1

SUNRISE HEIGHTS

ELIGIBLE INSTITUTION: Bank of America, N.A.

LOCKBOX BANK: Bank of America, N.A.

OPERATING LEASE: Not Applicable

PRINCIPAL AMOUNT OF NOTE: \$5,636,095

NOTE RATE: 6.02%

MATURITY DATE (SECTION 2.2(b)): 11/01/2013

MONTHLY PAYMENT AMOUNT (SECTION 2.2(b)): \$33,863.74

PAYMENT ADDRESS (SECTION 2.2(d)):

SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD (SECTION 2.4(b) AND SECTION 2.5): the fourth (4th) anniversary of the first Scheduled Payment Date

BORROWER ORGANIZATIONAL IDENTIFICATION NUMBER (SECTION 4.2):

LENDER NOTICE ADDRESS (SECTION 16.1):

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SCHEDULE 2

REQUIRED REPAIRS

(see attached)

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SCHEDULE 3

BORROWER ACCOUNT

SCHEDULE 4

(ADVISORY AGREEMENT)

The Manufactured Home Communities, Inc. (the "Company") agrees that all advice given by Banc of America Securities LLC ("BAS") in connection with its engagement hereunder is for the benefit and use of the Company in considering its strategic situation and that no such advice shall be used for any other purpose or be disclosed, reproduced, disseminated, quoted or referred to at any time, in any manner or for any purpose, nor shall any public references to BAS be made by or on behalf of the Company, in each case without BAS' prior written consent, which consent shall not be unreasonably withheld. BAS agrees to maintain the confidentiality of the confidential or proprietary information ("Confidential Information") provided by the Company to BAS in connection with this engagement and to utilize or disclose the Confidential Information only in connection with the activities and transactions contemplated by this letter agreement (the "Permitted Use"). BAS shall only disclose the Confidential Information (i) to its employees, officers, agents, advisors and other

representatives (collectively, its "Representatives") who need to know such Confidential Information in connection with the Permitted Use or (ii) as required by law, regulation or legal, governmental or regulatory process but only after, in the case of this clause (iii), notice to the Company, unless such notice is prohibited by law, regulation or legal, governmental or regulatory process. Notwithstanding the foregoing, the following will not constitute Confidential Information: (i) information which was already known to BAS prior to its disclosure by the Company; (ii) information which is obtained by the BAS from a third party who is not known by the BAS to be prohibited from disclosing the information to the BAS by a contractual, legal or fiduciary obligation to the Company; (iii) information which is or becomes publicly available (other than as a result of disclosure by the BAS in violation of this paragraph); and (iv) information which is independently developed, discovered or arrived at by the BAS or any of its Representatives without use of Confidential Information. BAS shall be liable for any breach of the provisions of this paragraph by its Representatives. The obligations related to Confidential Information contained in this paragraph shall terminate two years from the date of this letter agreement and will survive any earlier termination of this letter agreement. Notwithstanding anything to the contrary contained herein, BAS and the Company shall be permitted to disclose the tax treatment and tax structure of any strategic alternative (including any materials, opinions or analyses relating to such tax treatment or tax structure, but without disclosure of identifying information or, except to the extent relating to such tax structure or tax treatment, any nonpublic commercial or financial information) on and after the earliest to occur of the date of (i) public announcement of discussions relating to such strategic alternative, (ii) public announcement of such strategic alternative or (iii) execution of a definitive agreement (with or without conditions) to enter into such strategic alternative; provided, however, that if such strategic alternative is not consummated for any reason, the provisions of this sentence shall cease to apply with respect to such strategic alternative.

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SCHEDULE 4.5

(LITIGATION)

NONE

- 3 -

## Schedule Identifying Substantially Identical Agreements to Exhibit No. 10.45.

Various subsidiaries of the Company each entered into loan agreement which is substantially identical to the loan agreement filed under Exhibit 10.45. The following table lists the borrower, lender and loan amount which differs from that in exhibit 10.45 for each of the six loan agreements.

Borrower -----	Lender -----	Loan Amount -----
MHC Casa Village, L.L.C.	Bank of America, N.A.	\$11,040,000
MHC Colony Park Limited Partnership	Bank of America, N.A.	\$5,825,877
MHC Heritage Plantation, L.L.C.	Wells Fargo Bank, National Association	\$13,520,000
MHC Maralago Cay, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$21,600,000
MHC Quail Meadows Limited Partnership	Wells Fargo Bank, National Association	\$5,280,000
MHC Santiago Estates Limited Partnership	Bank of America, N.A.	\$16,204,901

LOAN AGREEMENT

Dated as of October 17, 2003

Between

MHC COUNTRYSIDE, L.L.C.

as Borrower

and

BANK OF AMERICA, N.A.

as Lender

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LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of October 17, 2003 (as amended, restated, replaced, supplemented or otherwise modified from time to time, this "AGREEMENT"), between BANK OF AMERICA, N.A., having an address at Bank of America Corporate Center, 214 North Tryon Street, Charlotte, North Carolina 28255 (together with its successors and/or assigns, "LENDER") and MHC COUNTRYSIDE, L.L.C., a Delaware limited liability company, having an address at c/o Manufactured Home Communities, Inc., Two North Riverside Plaza, Suite 800, Chicago, Illinois 60606 (together with its successors and/or assigns, "BORROWER").

RECITALS:

Borrower desires to obtain the Loan (defined below) from Lender.

Lender is willing to make the Loan to Borrower, subject to and in accordance with the terms of this Agreement and the other Loan Documents (defined below).

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

ARTICLE 1  
DEFINITIONS; PRINCIPLES OF CONSTRUCTION

SECTION 1.1. DEFINITIONS

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

"ACCEPTABLE ACCOUNTANT" shall mean a "Big Four" accounting firm or other independent certified public accountant acceptable to Lender.

"ACQUIRED PROPERTY" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACQUIRED PROPERTY STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACT" shall have the meaning set forth in Section 6.1(c) hereof.

"ACT OF TERROR" shall have the meaning set forth in Section 9.8 hereof.

"ADVISORY AGREEMENT" shall have the meaning set forth in Section 13.3 hereof.

"AFFILIATE" shall mean, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person or of an

Affiliate of such Person.

"AFFILIATED LOANS" shall mean a loan made by Lender to a parent, subsidiary or such other entity affiliated with Borrower or Borrower Principal.

"AFFILIATED MANAGER" shall have the meaning set forth in Section 7.1 hereof.

"AFFILIATE TRANSFER PORTION OF THE PROPERTY" shall have the meaning set forth in Section 7.7 hereof.

"AFFILIATE TRANSFEREE" shall have the meaning set forth in Section 7.7 hereof.

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

"ALTERATION THRESHOLD" means five percent (5%) of the original principal amount of the Loan.

"ANNEX" shall have the meaning set forth in Section 4.40 hereof.

"APPRAISAL" shall mean an appraisal prepared in accordance with the requirements of applicable regulations issued pursuant to Chapter 34A, Title 12, U.S. Code prepared by an independent third party appraiser holding an MAI designation, who is State licensed or State certified if required under the laws of the State where the Property is located, who meets the requirements of applicable regulations issued pursuant to Chapter 34A, Title 12, U.S. Code, and who is otherwise satisfactory to Lender.

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

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

"BASIC CARRYING COSTS" shall mean, with respect to the Property, the sum of the following costs for the relevant fiscal year or payment period: (i) taxes, (ii) Insurance Premiums, and (iii) if applicable, any ground rent.

"BORROWER ACCOUNT" shall have the meaning set forth on Schedule 3 attached hereto.

"BORROWER PRINCIPAL" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"BORROWER PRINCIPAL AFFILIATE" shall have the meaning set forth in Section 2.5 hereof.

"BUSINESS DAY" shall mean a day on which Lender is open for the conduct of substantially all of its banking business at its office in the city in which the Note is payable (excluding Saturdays and Sundays).

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"CASH MANAGEMENT ACCOUNT" shall have the meaning set forth in Section 10.1(a) hereof.

"CASH MANAGEMENT PERIOD" shall mean the existence and continuance of an Event of Default.

"CASUALTY" shall have the meaning set forth in Section 8.2.

"CLOSING DATE" shall mean the date of the funding of the Loan.

"CONTROL" shall have the meaning set forth in Section 7.1 hereof.

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

"CONDEMNATION PROCEEDS" shall have the meaning set forth in Section 8.4(b).

"CREDITORS RIGHTS LAWS" shall mean with respect to any Person any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

"DEBT" shall mean the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, this Agreement, the Mortgage or any other Loan Document.

"DEBT SERVICE" shall mean, with respect to any particular period of time, scheduled principal and/or interest payments under the Note.

"DEBT SERVICE COVERAGE RATIO" shall mean, as of any date of determination, for the applicable period of calculation, the ratio, as determined by Lender, of (i) Net Operating Income to (ii) the aggregate amount of Debt Service which would be due for the same period. The Debt Service Coverage Ratio shall be determined by Lender at the end of each calendar quarter throughout the term of the Loan.

"DEFEASED NOTE" shall have the meaning set forth in Section 2.4(c)(i)(D) hereof.

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

"DEFAULT RATE" shall mean, with respect to the Loan, a rate per annum equal to the lesser of (a) the maximum rate permitted by applicable law, or (b) four percent (4%) above the Note Rate.

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"DEFEASANCE COLLATERAL" shall have the meaning set forth in Section 2.4(b)(i)(D)(2) hereof.

"DEFEASANCE SECURITY AGREEMENT" shall have the meaning set forth in Section 2.4(b)(i)(D)(2) hereof.

"DISCLOSURE DOCUMENT" shall have the meaning set forth in Section 13.5 hereof.

"ELIGIBLE ACCOUNT" shall mean a separate and identifiable account from all other funds held by the holding institution that is either (a) an account or accounts maintained with a federal or state chartered depository institution or trust company which complies with the definition of Eligible Institution or (b) a segregated trust account or accounts maintained with a federal or state chartered depository institution or trust company acting in its fiduciary capacity which, in the case of a state chartered depository institution or trust company, is subject to regulations substantially similar to 12 C.F.R. Section 9.10(b), having in either case a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by federal and state

authority. An Eligible Account will not be evidenced by a certificate of deposit, passbook or other instrument.

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

"EMBARGOED PERSON" shall the meaning set forth in Section 4.39.

"ENVIRONMENTAL INDEMNITY" shall mean, in the event such indemnity was executed in connection with the closing of the Loan, an Environmental Indemnity Agreement, dated as of the date hereof, executed by Borrower and Borrower Principal in connection with the Loan for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"ENVIRONMENTAL LAW" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL LIENS" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL PROBLEM" shall have the meaning set forth in Section 12.6 hereof.

"ENVIRONMENTAL REPORT" shall have the meaning set forth in Section 12.5 hereof.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statutes thereto and applicable regulations issued pursuant thereto in temporary or final form.

"EVENT OF DEFAULT" shall have the meaning set forth in Section 11.1 hereof.

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"EXCHANGE ACT" shall mean the Securities and Exchange Act of 1934, as amended.

"EXCHANGE ACT FILING" shall have the meaning set forth in Section 5.11(c) hereof.

"EXCESS CASH RESERVE ACCOUNT" shall have the meaning set forth in Section 9.7 hereof.

"EXCESS CASH RESERVE FUNDS" shall have the meaning set forth in Section 9.7 hereof.

"FITCH" shall mean Fitch, Inc.

"GAAP" shall mean generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

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

"HAZARDOUS MATERIALS" shall have the meaning set forth in Section 12.5 hereof.

"IMPROVEMENTS" shall have the meaning set forth in the granting clause of the Mortgage.

"INDEMNIFIED PARTIES" shall mean (a) Lender, (b) any prior owner or holder of the Loan or Participations in the Loan, (c) any servicer or prior servicer of the Loan, (d) any Investor or any prior Investor in any Securities, (e) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any Investor or other third party, (f) any receiver or other fiduciary appointed in a foreclosure or other Creditors Rights Laws proceeding, (g) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (h) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties' assets and business), in all cases whether during the term of the Loan or as part of or following a foreclosure of the Mortgage.

"INDEPENDENT DIRECTOR" shall have the meaning set forth in Section 6.4(a).

"INSOLVENCY OPINION" shall mean a bankruptcy non-consolidation opinion, which such opinion shall be provided by outside counsel acceptable to Lender and, if the Loan has been securitized, the Rating Agencies and shall otherwise be in form, scope and substance acceptable to Lender and, if the Loan has been securitized, the Rating Agencies.

"INSURANCE CERTIFICATES" shall have the meaning set forth in Section 8.1 hereof.

"INSURANCE PREMIUMS" shall have the meaning set forth in Section 8.1(b) hereof.

"INSURANCE PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

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"INTEREST SHORTFALL" shall have the meaning set forth in Section 2.4(h) hereof.

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

"INVESTOR" shall have the meaning set forth in Section 13.3 hereof.

"ISSUER GROUP" shall have the meaning set forth in Section 13.5(b) hereof.

"ISSUER PERSON" shall have the meaning set forth in Section 13.5(b) hereof.

"LAUNDRY LEASE" shall have the meaning set forth in Section 4.25 hereof.

"LEASE" shall have the meaning set forth in the Mortgage.

"LEGAL REQUIREMENTS" shall mean all statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Property or any part thereof, or the construction, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses, authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force

affecting the Property or any part thereof, including, without limitation, any which may (a) require repairs, modifications or alterations in or to the Property or any part thereof, or (b) in any way limit the use and enjoyment thereof.

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

"LLC AGREEMENT" shall have the meaning set forth in Section 6.1(c).

"LOAN" shall mean the loan made by Lender to Borrower pursuant to this Agreement.

"LOAN DOCUMENTS" shall mean, collectively, this Agreement, the Note, the Mortgage, the Environmental Indemnity, (if applicable) the Assignment of Management Agreement, the Lockbox Agreement, and any and all other documents, agreements and certificates executed and/or delivered in connection with the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"LOCKBOX ACCOUNT" shall mean an Eligible Account established pursuant to the Lockbox Agreement for deposit of all Rents and other receipts from the Property.

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"LOCKBOX AGREEMENT" shall mean that certain lockbox account, deposit account or restricted account agreement among Borrower, Lender and Lockbox Bank providing for, among other things, control of the Lockbox Account.

"LOCKBOX BANK" shall have the meaning set forth on Schedule 1, attached hereto.

"LOCKOUT PERIOD" shall mean the period commencing on the date hereof and ending on the date which is three (3) months prior to the Maturity Date.

"LOSSES" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to reasonable legal fees and other costs of defense).

"MAJOR LEASE" shall mean as to the Property (i) any Lease (other than a mobile home or recreational vehicle pad lease) which, individually or when aggregated with all other leases at the Property with the same Tenant or its Affiliate, either (A) accounts for five percent (5%) or more of the Property's aggregate Net Operating Income, or (B) demises 5,000 square feet or more of the Property's gross leasable area, (ii) any Lease which provides the Tenant thereunder any option, offer, right of first refusal or other similar entitlement to acquire all or any portion of the Property except to the extent rights of first refusal are provided to (A) Tenants occupying the Property under pad leases or (B) a homeowner's association, each solely as a result of applicable Legal Requirements, (iii) any commercial Lease or (iv) any instrument guaranteeing or providing credit support for any Lease meeting the requirements of (i), (ii) or (iii) above.

"MANAGEMENT AGREEMENT" shall mean the management agreement entered into by and between Borrower and Manager, pursuant to which Manager is to provide management and other services with respect to the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified in accordance with the terms of this Agreement.

"MANAGER" shall mean (i) MHCOP, (ii) MHC, (iii) any entity under the Control of either MHCOP or MHC or (iv) such other entity selected as the manager of the Property in accordance with the terms of this Agreement.

"MATURITY DATE" shall have the meaning set forth on Schedule 1, attached hereto.

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

"MEMBER" shall have the meaning set forth in Section 6.1(c) hereof.

"MHC" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"MHCOP" shall mean MHC Operating Limited Partnership, an Illinois limited partnership.

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"MHC SUBSIDIARY" shall have the meaning set forth in Section 7.3 hereof.

"MONTHLY PAYMENT AMOUNT" shall have the meaning set forth in Section 2.2(b) hereof.

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

"MORTGAGE" shall mean that certain first priority mortgage/deed of trust/deed to secure debt and security agreement dated the date hereof, executed and delivered by Borrower as security for the Loan and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NET OPERATING INCOME" shall mean, with respect to any period of time, the amount obtained by subtracting Operating Expenses from Operating Income.

"NET PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

"NET PROCEEDS DEFICIENCY" shall have the meaning set forth in Section 8.4(b) (vi) hereof.

"NOTE" shall mean that certain promissory note of even date herewith in the principal amount set forth on Schedule 1, attached hereto, made by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NOTE RATE" shall have the meaning set forth on Schedule 1, attached hereto.

"OFFERING DOCUMENT Date" shall have the meaning set forth in Section 5.11(c) (i) (D) hereof.

"OPERATING EXPENSES" shall mean, with respect to any period of time, the total of all expenses actually paid or payable, computed in accordance with GAAP, of whatever kind relating to the operation, maintenance and management of the Property, including without limitation, utilities, ordinary repairs and maintenance, Insurance Premiums, license fees, Taxes and Other Charges, advertising expenses, payroll and related taxes, computer processing charges, management fees equal to the greater of 4% of the Operating Income and the management fees actually paid under the Management Agreement, operational



equipment or other lease payments, normalized capital expenditures equal to \$50 per pad per annum, but specifically excluding depreciation and amortization, income taxes, Debt Service, any incentive fees due under the Management Agreement, any item of expense that in accordance with GAAP should be capitalized, any item of expense that would otherwise be covered by the provisions hereof but which is paid by any Tenant under such Tenant's Lease or other agreement directly to a third party other than Borrower, and deposits into the Reserve Accounts.

"OPERATING INCOME" shall mean, with respect to any period of time, all income, computed in accordance with GAAP, derived from the ownership and operation of the Property from whatever source, including, but not limited to, Rents (including percentage rents), utility charges, escalations, forfeited security deposits, interest on credit accounts, service fees or charges, license fees, parking fees, rent concessions or credits, and other required pass-throughs

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but excluding sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any Governmental Authority, refunds and uncollectible accounts, sales of furniture, fixtures and equipment, interest income from any source other than the escrow accounts, Reserve Accounts or other accounts required pursuant to the Loan Documents, Insurance Proceeds (other than business interruption or other loss of income insurance), Awards, unforfeited security deposits, utility and other similar deposits, income from Tenants (under Major Leases) not paying rent, income from tenants (under Major Leases) in bankruptcy, non-recurring or extraordinary income, including, without limitation lease termination payments, and any disbursements to Borrower from the Reserve Funds.

"ORIGINAL BORROWER" shall have the meaning set forth in Section 2.5 hereof.

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

"PARTICIPATIONS" shall have the meaning set forth in Section 13.1 hereof.

"PATRIOT ACT" shall have the meaning set forth in Section 4.40 hereof.

"PERMITTED ENCUMBRANCES" shall mean collectively, (a) the Lien and security interests created by the Loan Documents, (b) all Liens, encumbrances and other matters disclosed in the Title Insurance Policy, (c) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, (d) such other title and survey exceptions as Lender has approved or may approve in writing in Lender's reasonable discretion and (e) utility easements and other easements granted by Borrower in accordance with the terms and conditions set forth herein.

"PERMITTED INVESTMENTS" shall mean to the extent available from Lender or Lender's servicer for deposits in the Reserve Accounts and the Lockbox Account, any one or more of the following obligations or securities acquired at a purchase price of not greater than par, including those issued by a servicer of the Loan, the trustee under any securitization or any of their respective Affiliates, payable on demand or having a maturity date not later than the Business Day immediately prior to the date on which the funds used to acquire such investment are required to be used under this Agreement and meeting one of the appropriate standards set forth below:

(a) obligations of, or obligations fully guaranteed as to payment of principal and interest by, the United States or any agency or instrumentality thereof provided such obligations are backed by the full faith and credit of the

United States of America including, without limitation, obligations of: the U.S. Treasury (all direct or fully guaranteed obligations), the Farmers Home Administration (certificates of beneficial ownership), the General Services Administration (participation certificates), the U.S. Maritime Administration (guaranteed Title XI financing), the Small Business Administration (guaranteed participation certificates and guaranteed pool certificates), the U.S. Department of Housing and Urban Development (local authority bonds) and the Washington Metropolitan Area Transit Authority (guaranteed transit bonds); provided, however, that the investments described in this clause must (i) have a

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predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) be rated "AAA" or the equivalent by each of the Rating Agencies, (iii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iv) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (v) such investments must not be subject to liquidation prior to their maturity;

(b) Federal Housing Administration debentures;

(c) obligations of the following United States government sponsored agencies: Federal Home Loan Mortgage Corp. (debt obligations), the Farm Credit System (consolidated systemwide bonds and notes), the Federal Home Loan Banks (consolidated debt obligations), the Federal National Mortgage Association (debt obligations), the Financing Corp. (debt obligations), and the Resolution Funding Corp. (debt obligations); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(d) federal funds, unsecured certificates of deposit, time deposits, bankers' acceptances and repurchase agreements with maturities of not more than 365 days of any bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(e) fully Federal Deposit Insurance Corporation-insured demand and time deposits in, or certificates of deposit of, or bankers' acceptances with maturities of not more than 365 days and issued by, any bank or trust company, savings and loan association or savings bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such

interest rate must be tied to a single interest rate index plus a fixed

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spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(f) debt obligations with maturities of not more than 365 days and at all times rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest long-term unsecured rating category; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(g) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) with maturities of not more than 365 days and that at all times is rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest short-term unsecured debt rating; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(h) units of taxable money market funds or mutual funds, with maturities of not more than 365 days and which funds are regulated investment companies, seek to maintain a constant net asset value per share and invest solely in obligations backed by the full faith and credit of the United States, which funds have the highest rating available from each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) for money market funds or mutual funds; and

(i) any other security, obligation or investment which has been approved as a Permitted Investment in writing by (i) Lender and (ii) each Rating Agency, as evidenced by a written confirmation that the designation of such security, obligation or investment as a Permitted Investment will not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities by such Rating Agency;

provided, however, that no obligation or security shall be a Permitted Investment if (A) such obligation or security evidences a right to receive only interest payments, (B) the right to receive principal and interest payments on such obligation or security are derived from an

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underlying investment that provides a yield to maturity in excess of one hundred

twenty percent (120%) of the yield to maturity at par of such underlying investment or (C) such obligation or security has a remaining term to maturity in excess of one (1) year.

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

"PERSONAL PROPERTY" shall have the meaning set forth in the granting clause of the Mortgage.

"PHYSICAL CONDITIONS REPORT" shall mean a report prepared by a company satisfactory to Lender regarding the physical condition of the Property, satisfactory in form and substance to Lender in its sole discretion.

"POLICIES" shall have the meaning set forth in Section 8.1 hereof.

"PROHIBITED TRANSFER" shall have the meaning set forth in Section 7.2 hereof.

"PROPERTY" shall mean the parcel of real property, the Improvements thereon and all Personal Property owned by Borrower and encumbered by the Mortgage, together with all rights pertaining to such property and Improvements, as more particularly described in the granting clause of the Mortgage and referred to therein as the "Property".

"PROVIDED INFORMATION" shall have the meaning set forth in Section 13.4(a) hereof.

"QUALIFIED MANAGER" shall mean Manager or a reputable and experienced professional management organization (a) which manages, together with its affiliates, mobile home communities, exclusive of the Property containing, in the aggregate, at least one thousand five hundred (1,500) mobile home pads and/or recreational vehicle pads or (b) (i) approved by Lender, which approval shall not have been unreasonably withheld and (ii) for which Lender shall have received written confirmation from the Rating Agencies that the employment of such manager will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to be assigned in connection with a Securitization. In the event Manager is an Affiliated Manager, Borrower shall deliver to Lender a revised substantive non-consolidation opinion if one was delivered in connection with the closing of the Loan.

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

"REA" shall mean any construction, operation and reciprocal easement agreement or similar agreement (including any separate agreement or other agreement between Borrower and one or more other parties to an REA with respect to such REA) affecting the Property or portion thereof.

"RELEASE" shall have the meaning set forth in Section 12.5 hereof.

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"RELEASE PROPERTY" shall have the meaning set forth in Section 2.5 hereof.

"REMIC PROHIBITION PERIOD" shall have the meaning set forth in Section 2.4(b) (iv) hereof.

"REMIC TRUST" shall mean a "real estate mortgage investment conduit" (within the meaning of Section 860D, or applicable successor provisions, of the

Code) that holds the Note.

"RENT ROLL" shall have the meaning set forth in Section 4.24 hereof.

"RENTS" shall have the meaning set forth in the Mortgage.

"RENT DIRECTION LETTER" shall have the meaning set forth in Section 10.2(a) hereof.

"REPLACEMENT RESERVE ACCOUNT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE FUNDS" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE MONTHLY DEPOSIT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE PERIOD" shall mean the period commencing on the earlier of the following to occur: (i) the date upon which the Debt Service Coverage Ratio for the Property, as reasonably determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio equals or exceeds 1.15 to 1.00 for the immediately preceding twelve (12) month period or (ii) the existence and continuance of an Event of Default.

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

"REQUIRED REPAIRS" shall have the meaning set forth in Section 9.1(a) hereof.

"REQUIRED WORK" shall have the meaning set forth in Section 9.4 hereof.

"RESERVE ACCOUNTS" shall mean the Tax and Insurance Reserve Account, the Replacement Reserve Account, the Excess Cash Reserve Account, the Terrorism Reserve Account, if applicable, or any other escrow account established by the Loan Documents.

"RESERVE FUNDS" shall mean the Tax and Insurance Reserve Funds, the Replacement Reserve Funds, the Excess Cash Reserve Funds, the Terrorism Reserve Funds, if applicable, or any other escrow funds established by the Loan Documents.

"RESTORATION" shall mean, following the occurrence of a Casualty or a Condemnation which is of a type necessitating the repair of the Property, the completion of the repair and restoration of the Property as nearly as possible to the condition the Property was in immediately prior to such Casualty or Condemnation, with such alterations as may be reasonably approved by Lender.

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"RESTORATION CONSULTANT" shall have the meaning set forth in Section 8.4(b)(iii) hereof.

"RESTORATION RETAINAGE" shall have the meaning set forth in Section 8.4(b)(iv) hereof.

"RESTRICTED PARTY" shall have the meaning set forth in Section 7.1 hereof.

"SALE OR PLEDGE" shall have the meaning set forth in Section 7.1 hereof.

"SCHEDULED PAYMENT DATE" shall have the meaning set forth in Section 2.2(b) hereof.

"SECURITIES" shall have the meaning set forth in Section 13.1 hereof.

"SECURITIES ACT" shall mean the Securities Act of 1933, as amended.

"SECURITIES LIABILITIES" shall have the meaning set forth in Section 13.5 hereof.

"SECURITIZATION" shall have the meaning set forth in Section 13.1 hereof.

"SPECIAL MEMBER" shall have the meaning set forth in Section 6.1(c).

"SPE COMPONENT ENTITY" shall have the meaning set forth in Section 6.1(b) hereof.

"STANDARD STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD" shall have the meaning set forth in Schedule 1, attached hereto.

"SUBSTITUTE PROPERTY" shall have the meaning set forth in Section 2.5 hereof.

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

"STATE" shall mean the state in which the Property or any part thereof is located.

"SUCCESSOR BORROWER" shall have the meaning set forth in Section 2.4(b) (iii) hereof.

"TAX AND INSURANCE RESERVE FUNDS" shall have the meaning set forth in Section 9.6 hereof.

"TAX AND INSURANCE RESERVE ACCOUNT" shall have the meaning set forth in Section 9.6 hereof.

"TAX AND INSURANCE RESERVE PERIOD" shall mean the earlier of the following to occur (i) the period commencing on the date upon which the Debt Service Coverage Ratio for the Property as determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio for the immediately preceding twelve (12) month period equals or exceeds 1.15 to 1.00, (ii) the period during the existence and continuance of an Event of Default or (iii) the period commencing upon Borrower's failure to deliver to Lender evidence of payment of (A) all Taxes and Other Charges

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in accordance with Section 5.4 hereof or (B) all Insurance Premiums in accordance with Section 8.1 hereof, which evidence shall be reasonably satisfactory to Lender in all respects, and ending upon delivery of such evidence to Lender.

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

"TENANT" shall mean any Person leasing, subleasing or otherwise occupying any portion of the Property under a Lease or other occupancy agreement with Borrower.

"TERMINATION FEE DEPOSIT" shall have the meaning set forth in Section 9.3(b).

"TERRORISM RESERVE ACCOUNT" shall have the meaning set forth in Section 9.8 hereof.

"TERRORISM RESERVE FUNDS" shall have the meaning set forth in Section 9.8 hereof.

"TITLE INSURANCE POLICY" shall mean that certain ALTA mortgagee title insurance policy issued with respect to the Property and insuring the lien of the Mortgage.

"TRANSFeree" shall have the meaning set forth in Section 7.5 hereof.

"TRIBUNAL" shall mean any state, commonwealth, federal, foreign, territorial or other court or governmental department, commission, board, bureau, district, authority, agency, central bank, or instrumentality, or any arbitration authority.

"UCC" or "UNIFORM COMMERCIAL CODE" shall mean the Uniform Commercial Code as in effect in the State where the applicable Property is located.

#### SECTION 1.2. PRINCIPLES OF CONSTRUCTION.

All references to sections and schedules are to sections and schedules in or to this Agreement unless otherwise specified. All uses of the word "including" shall mean "including, without limitation" unless the context shall indicate otherwise. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined.

### ARTICLE 2 GENERAL TERMS

#### SECTION 2.1. LOAN COMMITMENT; DISBURSEMENT TO BORROWER

(a) Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

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(b) Borrower may request and receive only one borrowing in respect of the Loan and any amount borrowed and repaid in respect of the Loan may not be reborrowed.

(c) The Loan shall be evidenced by the Note and secured by the Mortgage and the other Loan Documents.

(d) Borrower shall use the proceeds of the Loan to (i) pay certain costs in connection with the financing of the Property, (ii) make deposits into the Reserve Funds on the Closing Date in the amounts provided herein, (iii) pay costs and expenses incurred in connection with the closing of the Loan, as approved by Lender, (iv) fund any working capital requirements of the Property, and (v) distribute the balance, if any, to its partners or members, as applicable.

#### SECTION 2.2. LOAN PAYMENTS

(a) The Loan shall bear interest at a fixed rate per annum equal to the Note Rate. Interest shall be computed based on the daily rate produced assuming a three hundred sixty (360) day year, multiplied by the actual number of days elapsed. Except as otherwise set forth in this Agreement, interest shall be paid in arrears.

(b) Borrower hereby agrees to pay sums due under the Note as follows:

An initial payment of is due on the Closing Date for interest from the Closing Date through and including October 31, 2003. Thereafter, except as may be adjusted in accordance with the last sentence of Section 2.2(c), consecutive monthly installments of principal and interest in an amount equal to the sum set forth on Schedule 1, attached hereto, shall be payable pursuant to the terms of Section 2.2(d) (the "Monthly Payment Amount") on the first (1st) day of each month beginning on December 1, 2003 (each a "Scheduled Payment Date") until the entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on the Maturity Date.

(c) The Monthly Payment Amount shall mean the amount of interest and principal which would be due in order to fully amortize the principal amount of the Loan over an amortization term of thirty (30) years assuming an annual interest rate equal to the Note Rate, computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each. Borrower expressly understands and agrees that such computation of interest based on a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each is solely for the purpose of determining the Monthly Payment Amount, and, notwithstanding such computation, interest shall accrue on the outstanding principal amount of the Loan as provided in Section 2.2(a) above. Borrower understands and acknowledges that such interest accrual requirement results in more interest accruing on the Loan than if either a thirty (30) day month and a three hundred sixty (360) day year or the actual number of days and a three hundred sixty-five (365) day year were used to compute the accrual of interest on the Loan. Borrower recognizes that such interest accrual requirement will not fully amortize the Loan within the amortization period set forth above. Following any partial prepayment occurring solely as a result of the application of Insurance Proceeds or Awards pursuant to the terms of this Agreement, Lender may, in its sole and absolute discretion, adjust the Monthly Payment Amount to give effect to any such partial prepayment, provided, however, that in no event will any such

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adjustment result in any such installment becoming due and payable on any date after the Maturity Date.

(d) Each payment by Borrower hereunder or under the Note shall be payable at the payment address set forth on Schedule 1, attached hereto, or at such other place as the Lender may designate from time to time in writing, on the date such payment is due, to Lender by deposit to such account as Lender may designate by written notice to Borrower. Whenever any payment hereunder or under the Note shall be stated to be due on a day which is not a Business Day, such payment shall be made on the first Business Day preceding such scheduled due date.

(e) Prior to the occurrence and following the cure (in accordance with the terms hereof) of an Event of Default, all monthly payments made as scheduled under this Agreement and the Note shall be applied first to the payment of interest computed at the Note Rate, and the balance toward the reduction of the principal amount of the Note. All voluntary and involuntary prepayments on the Note shall be applied, to the extent thereof, to accrued but unpaid interest on the amount prepaid, to the remaining principal amount, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion, including, but not limited to, application to principal installments in inverse order of maturity. Following the occurrence and during the continuance of an Event of Default, any payment made on the Note shall be applied to accrued but unpaid interest, late charges, accrued fees, the unpaid principal amount of the Note, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion.

(f) All payments made by Borrower hereunder or under the Note or the other Loan Documents shall be made irrespective of, and without any deduction for, any setoff, defense or counterclaims.

#### SECTION 2.3. LATE PAYMENT CHARGE



If any principal or interest payment is not paid by Borrower on or before the date which is ten (10) calendar days after the same is due, Borrower shall pay to Lender upon demand an amount equal to the lesser of four percent (4%) of such unpaid sum or the maximum amount permitted by applicable law in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. Any such amount shall be secured by the Mortgage and the other Loan Documents to the extent permitted by applicable law.

#### SECTION 2.4. PREPAYMENT; DEFEASANCE

Except as otherwise expressly permitted by this Section 2.4, no voluntary prepayments, whether in whole or in part, of the Loan or any other amount at any time due and owing under the Note can be made by Borrower or any other Person without the express written consent of Lender.

(a) Lockout Period. Borrower has no right to make, and Lender shall have no obligation to accept, any voluntary prepayment, whether in whole or in part, of the Loan during the Lockout Period. Notwithstanding the foregoing, if either (i) Lender, in its sole and absolute

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discretion, accepts a full or partial voluntary prepayment during the Lockout Period or (ii) there is an involuntary prepayment during the Lockout Period, then, in either case, Borrower shall, in addition to any portion of the Loan prepaid (together with all interest accrued and unpaid thereon), pay to Lender a prepayment premium in an amount calculated in accordance with Section 2.4(d) hereof.

(b) Total Defeasance.

(i) Notwithstanding any provisions of this Section 2.4 to the contrary, including, without limitation, subsection (a) of this Section 2.4, at any time after the earlier to occur of the (1) expiration of the REMIC Prohibition Period or (2) expiration of the Substitution/Defeasance Lockout Period, Borrower may cause the release of the Property from the lien of the Mortgage and the other Loan Documents upon the satisfaction of the following conditions:

(A) no Event of Default shall exist under any of the Loan Documents;

(B) not less than thirty (30) (but not more than ninety (90)) days prior written notice shall be given to Lender specifying a date on which the Defeasance Collateral (as hereinafter defined) is to be delivered (the "RELEASE DATE"), such date being on a Scheduled Payment Date; provided, however, that Borrower shall have the right (i) to cancel such notice by providing Lender with notice of cancellation ten (10) days prior to the scheduled Release Date, or (ii) to extend the scheduled Release Date until the next Scheduled Payment Date; provided that in each case, Borrower shall pay all of Lender's reasonable costs and expenses incurred as a result of such cancellation or extension;

(C) all accrued and unpaid interest and all other sums due under the Note, this Agreement and under the other Loan Documents up to the Release Date, including, without limitation, all reasonable fees, costs and expenses incurred by Lender and its agents in connection with such release (including, without limitation, reasonable legal fees and expenses for the review and preparation of the Defeasance Security Agreement (as hereinafter defined) and of the other materials described in Section 2.4(b)(i)(D) below and any related documentation, and any servicing fees, Rating Agency

fees or other costs related to such release), shall be paid in full on or prior to the Release Date;

(D) Borrower shall deliver to Lender on or prior to the Release Date:

(1) a pledge and security agreement, in form and substance which would be satisfactory to a prudent institutional mortgage loan lender, creating a first priority security interest in favor of Lender in the Defeasance Collateral, as defined herein (the "DEFEASANCE SECURITY AGREEMENT"), which shall provide, among other things, that any excess amounts received by Lender from the Defeasance Collateral over the amounts payable by Borrower on a given Scheduled Payment Date, which excess amounts are not required to cover all or any portion of amounts payable on a future Scheduled Payment Date, shall be refunded to Borrower promptly after each such Scheduled Payment Date;

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(2) direct non-callable obligations of the United States of America (or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, to the extent the applicable Rating Agencies rating the Securities have confirmed in writing will not cause a downgrade, withdrawal or qualification of the initial, or, if higher, then applicable ratings of the Securities), that provide for payments prior and as close as possible to (but in no event later than) all successive Scheduled Payment Dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding Monthly Payment Amount required to be paid under this Agreement and the Note (including all amounts due on the Maturity Date) for the balance of the term hereof (the "DEFEASANCE COLLATERAL"), each of which shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance which would be satisfactory to a prudent lender (including, without limitation, such certificates, documents and instruments as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the Defeasance Security Agreement the first priority security interest therein in favor of Lender in conformity with all applicable state and federal laws governing granting of such security interests;

(3) a certificate of Borrower certifying that all of the requirements set forth in this Section 2.4(b)(i) have been satisfied;

(4) one or more opinions of counsel for Borrower in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that (i) Lender has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms, (ii) the release of the lien of the Mortgage and the pledge of Defeasance Collateral will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (iii) the defeasance will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost;

(5) a certificate in form and scope which would be acceptable to a prudent lender from an Acceptable Accountant certifying that the Defeasance Collateral will generate amounts sufficient to make all payments of principal and interest due under the Note (including the scheduled outstanding principal balance of the Loan due on the Maturity Date); and

(6) such other certificates, documents and instruments as a prudent institutional lender would require; and

(E) in the event the Loan is held by a REMIC Trust, Lender has received written confirmation from any Rating Agency rating any Securities that substitution of the Defeasance Collateral will not result in a downgrade,

withdrawal, or qualification of the ratings then assigned to any of the Securities.

(ii) Upon compliance with the requirements of Section 2.4(b)(i), the Property shall be released from the lien of the Mortgage and the other Loan Documents, and the Defeasance Collateral shall constitute collateral which shall secure the Note and all other

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obligations under the Loan Documents. Lender will, at Borrower's expense, execute and deliver any agreements reasonably requested by Borrower to release the lien of the Mortgage and the other Loan Documents from the Property.

(iii) Upon the release of the Property in accordance with this Section 2.4(b), Borrower shall (at Lender's sole and absolute discretion) assign all its obligations and rights under the Note, together with the pledged Defeasance Collateral, to a successor entity designated and approved by Lender in its sole and absolute discretion ("SUCCESSOR BORROWER"). Successor Borrower shall execute an assignment and assumption agreement in form and substance which would be satisfactory to a prudent lender pursuant to which it shall assume Borrower's obligations under the Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, Borrower shall (A) deliver to Lender one or more opinions of counsel in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that such assignment and assumption agreement is enforceable against Borrower and the Successor Borrower in accordance with its terms and that the Note, the Defeasance Security Agreement and the other Loan Documents, as so assigned and assumed, are enforceable against the Successor Borrower in accordance with their respective terms, and opining to such other matters relating to Successor Borrower and its organizational structure as Lender may require, and (B) pay all reasonable fees, costs and expenses incurred by Lender or its agents in connection with such assignment and assumption (including, without limitation, legal fees and expenses and for the review of the proposed transferee and the preparation of the assignment and assumption agreement and related certificates, documents and instruments and any fees payable to any Rating Agencies and their counsel in connection with the issuance of the confirmation referred to in subsection (b)(i)(E) above). Upon such assignment and assumption, Borrower shall be relieved of its obligations hereunder, under the Note, under the other Loan Documents and under the Defeasance Security Agreement, except as expressly set forth in the assignment and assumption agreement.

(iv) For purposes of this Section 2.4, "REMIC PROHIBITION PERIOD" means the two-year period commencing with the "startup day" within the meaning of Section 860G(a)(9) of the Code of any REMIC Trust that holds the Note. In no event shall Lender have any obligation to notify Borrower that a REMIC Prohibition Period is in effect with respect to the Loan, except that Lender shall notify Borrower if any REMIC Prohibition Period is in effect with respect to the Loan after receiving any notice described in Section 2.4(b)(i)(B); provided, however, that the failure of Lender to so notify Borrower shall not impose any liability on Lender or grant Borrower any right to defease the Loan during any such REMIC Prohibition Period.

(c) Intentionally deleted.

(d) Involuntary Prepayment During the Lockout Period. During the Lockout Period, in the event of any involuntary prepayment of the Loan or any other amount under the Note, whether in whole or in part, in connection with or following Lender's acceleration of the Note or otherwise, and whether the Mortgage is satisfied or released by foreclosure (whether by power of sale or judicial proceeding), deed in lieu of foreclosure or by any other means,

including, without

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limitation, repayment of the Loan by Borrower or any other Person pursuant to any statutory or common law right of redemption, Borrower shall, in addition to any portion of the principal balance of the Loan prepaid (together with all interest accrued and unpaid thereon and in the event the prepayment is made on a date other than a Scheduled Payment Date, a sum equal to the amount of interest which would have accrued under the Note on the amount of such prepayment if such prepayment had occurred on the next Scheduled Payment Date), pay to Lender a prepayment premium in an amount calculated in accordance with this Section 2.4(d). Such prepayment premium shall be in an amount equal to the greater of:

- (i) 1% of the portion of the Loan being prepaid; or
- (ii) the product obtained by multiplying:
  - (A) the portion of the Loan being prepaid, times;
  - (B) the difference obtained by subtracting (I) the Yield Rate from (II) the Note Rate, times;
  - (C) the present value factor calculated using the following formula:

$$\frac{1-(1+r)^{-n}}{r}$$

r = Yield Rate

n = the number of years and any fraction thereof, remaining between the date the prepayment is made and the Maturity Date of the Note.

As used herein, "YIELD RATE" means the yield per annum calculated by Lender by the linear interpolation of the yield of U.S. Treasury Securities having a maturity date (one longer and one shorter) most nearly approximating the Maturity Date as reported on the fifth Business Day preceding the Prepayment Calculation Date. The "PREPAYMENT CALCULATION DATE" shall mean, as applicable, the date on which (i) Lender applies any partial prepayment to the reduction of the outstanding principal amount of the Note, in the case of a voluntary partial prepayment which is accepted by Lender, (ii) Lender accelerates the Loan, in the case of a prepayment resulting from acceleration, or (iii) Lender applies funds held under any Reserve Account, in the case of a prepayment resulting from such an application (other than in connection with acceleration of the Loan).

(e) Insurance and Condemnation Proceeds; Excess Interest. Notwithstanding any other provision herein to the contrary, and provided no Event of Default exists, Borrower shall not be required to pay any prepayment premium in connection with any prepayment occurring solely as a result of (i) the application of Insurance Proceeds or Condemnation Proceeds pursuant to the terms of the Loan Documents, or (ii) the application of any interest in excess of the Maximum Legal Rate.

(f) After the Lockout Period. Commencing on the day after the expiration of the Lockout Period, and upon giving Lender at least thirty (30) days (but not more than ninety (90)

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days) prior written notice, Borrower may voluntarily prepay (without premium) the Note in whole (but not in part) on a Scheduled Payment Date. Lender shall

accept a prepayment pursuant to this Section 2.4(h) on a day other than a Scheduled Payment Date provided that, in addition to payment of the full outstanding principal balance of the Note, Borrower pays to Lender a sum equal to the amount of interest which would have accrued on the Note if such prepayment occurred on the next Scheduled Payment Date (the "INTEREST SHORTFALL").

(g) Limitation on Partial Prepayments. Except as set forth in Section 2.4(e), in no event shall Lender have any obligation to accept a partial prepayment.

#### SECTION 2.5. SUBSTITUTION OF PROPERTIES

Subject to the terms of this Section 2.5 after the earlier to occur of (1) the expiration of the REMIC Prohibition Period or (2) the Substitution/Defeasance Lockout Period (provided, however, that prior to a Securitization of the Loan, Borrower may obtain a substitution pursuant to this Section 2.5 during the Substitution/Defeasance Lockout Period), Borrower may obtain a release of the Lien of the Mortgage (and the related Loan Documents) encumbering the Property (the "RELEASE PROPERTY") up to one (1) time during the Loan term by substituting therefor another property of like kind and quality, acquired by Borrower or an Affiliate of Borrower (provided, however, if the Substitute Property shall be owned by an Affiliate of Borrower said Affiliate (i) shall assume all the obligations of Borrower under this Agreement, the Note and the other Loan Documents and (ii) shall become a party to the Note and the other Loan Documents and shall be bound by the terms and provisions thereof as if it had executed the Note and the other Loan Documents and shall have the rights and obligations of Borrower thereunder) (individually, a "SUBSTITUTE PROPERTY" and collectively, the "SUBSTITUTE PROPERTIES"), provided that the following conditions precedent are satisfied:

(a) Lender shall have received at least sixty (60) days prior written notice requesting the substitution and identifying the Substitute Property and Release Property.

(b) Lender shall have received (i) a copy of a deed conveying all of Borrower's right, title and interest in and to the Release Property to a Person other than Borrower or Borrower Principal pursuant to an arms length transaction and (ii) a letter from Borrower countersigned by a title insurance company acknowledging receipt of such deed and agreeing to record such deed in the real estate records for the county in which the Release Property is located.

(c) Lender shall have received a current Appraisal of the Substitute Property prepared within one hundred eighty (180) days prior to the release and substitution (i) showing an appraised value equal to or greater than the appraised value of the Release Property as of the Closing Date, and (ii) which supports a loan-to-value ratio with respect to the Substitute Property not greater than the lesser of (A) the loan-to-value ratio as of the Closing Date with respect to the Release Property and (B) the loan-to-value ratio with respect to the Release Property immediately prior to the date of the proposed substitution.

(d) Lender shall have received a certificate of Borrower certifying, together with other evidence that would be satisfactory to a prudent institutional mortgage loan lender that, after the substitution of the Substitute Property and the release of the Release Property, (i) the

Debt Service Coverage Ratio for the twelve (12) full calendar months immediately preceding the date of the substitution with respect to the Substitute Property after the substitution shall be equal to or greater than (A) Debt Service Coverage Ratio for the Release Property for the twelve (12) full calendar months immediately preceding the Closing Date and (B) Debt Service Coverage Ratio for the Release Property for the twelve (12) full calendar months immediately preceding the substitution.

(e) If the Loan is part of a Securitization, Lender shall have received confirmation in writing from the Rating Agencies to the effect that such release and substitution will not result in a withdrawal, qualification or downgrade of the respective ratings in effect immediately prior to such release and substitution for the Securities issued in connection with the Securitization that are then outstanding. If the Loan is not part of a Securitization, Lender shall have consented in writing to such release and substitution, which consent shall be given in Lender's reasonable discretion applying the requirements of a prudent institutional mortgage loan lender with respect to real estate collateral of similar size, scope and value of the Substitute Property.

(f) No Event of Default shall have occurred and be continuing. Lender shall have received a certificate from Borrower confirming the foregoing, stating that the representations and warranties of Borrower contained in this Agreement and the other Loan Documents are true and correct in all material respects on and as of the date of the release and substitution with respect to Borrower, the Property and the Substitute Property and containing any other representations and warranties with respect to Borrower, the Property, the Substitute Property or the Loan as Lender and, if the Loan has been securitized, the Rating Agencies may reasonably require, unless such certificate would be inaccurate, such certificate to be in form and substance reasonably satisfactory to a prudent institutional mortgage loan lender and, if the Loan has been securitized, the Rating Agencies.

(g) Borrower shall have executed, acknowledged and delivered to Lender (I) a Mortgage, and two UCC-1 Financing Statements with respect to the Substitute Property, together with a letter from Borrower countersigned by a title insurance company acknowledging receipt of such Mortgage and UCC-1 Financing Statements and agreeing to record or file, as applicable, such Mortgage, and one of the UCC-1 Financing Statements in the real estate records for the county in which the Substitute Property is located and to file one of the UCC-1 Financing Statements in the office of the Secretary of State (or other central filing office) of the State in which Borrower is formed, so as to effectively create upon such recording and filing valid and enforceable first priority Lien upon the Substitute Property, in favor of Lender (or such other trustee as may be desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents and (II) an environmental indemnity with respect to the Substitute Property from Borrower and Borrower Principal as set forth in the Loan Agreement. The Mortgage, UCC-1 Financing Statements, and other Loan Documents shall be the same in form and substance as the counterparts of such documents executed and delivered with respect to the related Release Property subject to modifications reflecting only the Substitute Property as the Property and such modifications reflecting the laws of the State in which the Substitute Property is located. The Mortgage encumbering the Substitute Property shall secure all amounts then outstanding under the Note. If the Note is secured by more than one Mortgage, in the event that the jurisdiction in which the Substitute Property is located imposes a mortgage recording, intangibles or similar tax and does not permit

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the allocation of indebtedness for the purpose of determining the amount of such tax payable, the principal amount secured by such Mortgage shall be equal to one hundred ten percent (110%) of the allocated loan amount for the Substitute Property.

(h) Lender shall have received (A) to the extent available and applicable, any "tie-in" or similar endorsement, together with a "first loss" endorsement, to each Title Insurance Policy insuring the Lien of the existing Mortgage as of the date of the substitution with respect to the Title Insurance Policy insuring the Lien of the Mortgage with respect to the Substitute Property and (B) a Title Insurance Policy (or a marked, signed and redated commitment to issue such Title Insurance Policy) insuring the Lien of the Mortgage encumbering the Substitute Property, issued by the title company that issued the Title Insurance Policies insuring the Lien of the existing Mortgage and dated as of the date of the substitution. The Title Insurance Policy issued with respect to

the Substitute Property shall (1) to the extent applicable, provide coverage in the amount of the Loan if the "tie-in" or similar endorsement described above is available or, if such endorsement is not available, in an amount equal to one hundred ten percent (110%) of the original principal balance of the Loan, together with "last dollar endorsement," (2) insure Lender that the relevant Mortgage creates a valid first lien on the Substitute Property encumbered thereby, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified by the terms of any endorsements), (3) contain such endorsements and affirmative coverages as are then available and are contained in the Title Insurance Policies insuring the Liens of the existing Mortgage, and such other endorsements or affirmative coverage that a prudent institutional mortgage lender would require, and (4) name Lender as the insured. Lender also shall have received copies of paid receipts or other evidence showing that all premiums in respect of such endorsements and Title Insurance Policies have been paid.

(i) Lender shall have received a current Survey for the Substitute Property, certified to the title company and Lender and its successors and assigns, in the same form and having the same content as the certification of the Survey of the Release Property prepared by a professional land surveyor licensed in the State in which the Substitute Property is located in accordance with the 1999 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys. Such Survey shall reflect the same legal description contained in the Title Insurance Policy relating to such Substitute Property and shall include, among other things, a metes and bounds description of the real property comprising part of such Substitute Property (unless such real property has been satisfactorily designated by lot number on a recorded plat). The surveyor's seal shall be affixed to each Survey and each Survey shall certify whether or not the surveyed property is located in a "one-hundred-year flood hazard area."

(j) Lender shall have received valid certificates of insurance indicating that the requirements for the policies of insurance required for the Property hereunder have been satisfied with respect to the Substitute Property and evidence of the payment of all Insurance Premiums payable for the existing policy period.

(k) Lender shall have received a Phase I environmental report dated not more than one hundred eighty (180) days prior to the proposed date of substitution and otherwise acceptable to a prudent institutional mortgage loan lender and, if recommended under the Phase I environmental report, a Phase II environmental report that would be acceptable to a prudent

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institutional mortgage loan lender, which conclude that the Substitute Property does not contain any Hazardous Materials in violation of Environmental Laws and is not subject to any significant risk of contamination from any off site Hazardous Materials.

(l) Borrower shall deliver or cause to be delivered to Lender (A) updates or, if the Substitute Property is to be owned by an Affiliate of Borrower, originals, in either case certified by Borrower or such Affiliate, as applicable, of all organizational documentation related to Borrower or such Affiliate, as applicable, and/or the formation, structure, existence, good standing and/or qualification to do business delivered to Lender on the Closing Date; (B) good standing certificates, certificates of qualification to do business in the jurisdiction in which the Substitute Property is located (if required in such jurisdiction); and (C) resolutions of Borrower of such Affiliate, as applicable, authorizing the substitution and any actions taken in connection with such substitution.

(m) Lender shall have received the following opinions of Borrower's counsel: (A) an opinion or opinions of counsel admitted to practice under the laws of the State in which the Substitute Property is located stating that the Loan Documents delivered with respect to the Substitute Property pursuant to clause (i) above are valid and enforceable in accordance with their terms, subject to the laws applicable to creditors' rights and equitable principles,

and that Borrower is qualified to do business and in good standing under the laws of the jurisdiction where the Substitute Property is located or that Borrower is not required by Applicable Law to qualify to do business in such jurisdiction; (B) an opinion of counsel reasonably acceptable to Lender, and, if the Loan has been securitized, the Rating Agencies, stating that the Loan Documents delivered with respect to the Substitute Property pursuant to clause (i) above were, among other things, duly authorized, executed and delivered by Borrower and that the execution and delivery of such Loan Documents and the performance by Borrower of its obligations thereunder will not cause a breach of, or a default under, any agreement, document or instrument to which Borrower is a party or to which it or its properties are bound; (C) an update of any Insolvency Opinion delivered in connection with the closing of the Loan, indicating that the substitution does not affect the opinions set forth therein; (D) if the Loan is part of a Securitization, an opinion of counsel acceptable to the Rating Agencies that the substitution does not constitute a "significant modification" of the Loan under Section 1001 of the Code or otherwise cause a tax to be imposed on a "prohibited transaction" by any REMIC Trust.

(n) Borrower shall (i) have paid, (ii) have escrowed with Lender (if then required hereunder) or (iii) be contesting in accordance with the terms hereof, all Basic Carrying Costs relating to the Property and the Substitute Property, including without limitation, (i) accrued but unpaid Insurance Premiums relating to the Property and the Substitute Property, and (ii) currently due and payable Taxes (including any in arrears) relating to the Property and the Substitute Property and (iii) currently due and payable Other Charges relating to the Property and Substitute Property.

(o) Borrower shall have paid or reimbursed Lender for all reasonable costs and expenses incurred by Lender (including, without limitation, reasonable attorneys' fees and disbursements) in connection with the release and substitution and Borrower shall have paid all recording charges, filing fees, taxes or other expenses (including, without limitation, mortgage and intangibles taxes and documentary stamp taxes) payable in connection with the substitution.

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Borrower shall have paid all costs and expenses of the Rating Agencies incurred in connection with the substitution.

(p) Lender shall have received annual operating statements and occupancy statements for the Substitute Property for the most current completed fiscal year and a current operating statement for the Release Property, each certified by Borrower to Lender as being true and correct in all material respects and a certificate from Borrower certifying that there has been no material adverse change in the financial condition of the Substitute Property since the date of such operating statements.

(q) Borrower shall have delivered to Lender estoppel certificates from each Tenant under a Major Lease, except with respect to commercial Leases under which a Tenant has leased less than 3,000 square feet. All such estoppel certificates shall be in a form that would be satisfactory to a prudent mortgage loan lender and shall indicate that (1) the subject Lease is a valid and binding obligation of the tenant thereunder, (2) to the best of the tenant's knowledge, there are no defaults under such Lease on the part of the landlord or tenant thereunder, (3) the tenant thereunder has no knowledge of any defense or offset to the payment of rent under such Lease, (4) no rent under such Lease has been paid more than one (1) month in advance, (5) the tenant thereunder has no option under such Lease to purchase all or any portion of the Substitute Property, and (6) all tenant improvement work required under such Lease has been substantially completed and the tenant under such Lease is in actual occupancy of its leased premises. If an estoppel certificate indicates that all tenant improvement work required under the subject Lease has not yet been completed, Borrower shall deliver to Lender financial statements indicating that Borrower has adequate funds to pay all costs related to such tenant improvement work as required under such Lease.

(r) Lender shall have received copies of all Leases (except those



Leases relating to mobile home or recreational vehicle pads) affecting the Substitute Property, together with a rent roll, certified by Borrower as being true and correct.

(s) Lender shall have received subordination agreements in a form reasonably acceptable to Lender with respect to any Tenants at the Substitute Property having Leases which have been recorded (to the extent such Leases for such tenants are not automatically subordinate (in lien and in terms) pursuant to the terms of the applicable Leases).

(t) Lender shall have received (A) an endorsement to the Title Insurance Policy insuring the Lien of the Mortgage encumbering the Substitute Property insuring that the Substitute Property constitutes a separate tax lot or, if such an endorsement is not available in the State in which the Substitute Property is located, a letter from the title insurance company issuing such Title Insurance Policy stating that the Substitute Policy constitutes a separate tax lot or (B) a letter from the appropriate taxing authority stating that the Substitute Property constitutes a separate tax lot.

(u) Lender shall have received a Physical Conditions Report with respect to the Substitute Property stating that the Substitute Property and its use comply in all material respects with all applicable Legal Requirements (including, without limitation, zoning, subdivision and building laws) and that the Substitute Property is in good condition and repair.

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(v) Lender shall have received evidence which would be satisfactory to a prudent institutional mortgage loan lender to the effect that all material building and operating licenses and permits necessary for the use and occupancy of the Substitute Property as a mobile home park and/or recreational vehicle resort, as applicable, (and, if applicable, a golf course, together with all other appurtenant uses for which the Substitute Property is used) including, but not limited to, current certificates of occupancy, have been obtained and are in full force and effect.

(w) In the event the Release Property is subject to a Management Agreement along with one or more additional Properties, Lender shall have received a certified copy of an amendment to the Management Agreement reflecting the deletion of the Release Property and the addition of the Substitute Property as a property managed pursuant thereto and Manager shall have executed and delivered to Lender an amendment to the Assignment of Management Agreement reflecting such amendment to the Management Agreement. In the event that the Release Property is subject to a Management Agreement relating only to such Release Property, Lender shall have received a certified copy of a new Management Agreement for the Substitute Property on substantially the same terms as the Management Agreement for the Release Property and the Manager thereunder shall have executed and delivered to Lender an Assignment of Management Agreement with respect to such new Management Agreement on substantially the same terms as used in connection with the Release Property or such other terms as would be acceptable to a prudent institutional mortgage loan lender.

(x) Lender shall have received such other documents and information in connection with the substitution as requested by the Rating Agencies if the Loan is part of a Securitization, or Lender if the Loan is not part of a Securitization.

(y) Lender shall have received copies of all material contracts and agreements (that are not terminable by Borrower upon thirty (30) days' notice) relating to the leasing and operation of the Substitute Property (other than the Management Agreement), each of which shall be in a form and substance which would be satisfactory to a prudent institutional mortgage loan lender together with a certification of Borrower attached to each such contract or agreement certifying that the attached copy is a true and correct copy of such contract or agreement and all amendments thereto.

(z) Lender shall have received certified copies of all material

consents, licenses and approvals, if any, required in connection with the substitution of a Substitute Property, and evidence that such consents, licenses and approvals are in full force and effect.

(aa) Lender shall have received satisfactory (i.e., showing no Liens other than Permitted Encumbrances) UCC searches, together with tax lien, judgment and litigation searches with respect to the Substitute Property and Borrower in the State where the Substitute Property is located and the jurisdictions where each such Person has its principal place of business.

(bb) If Borrower owns a leasehold estate in the Substitute Property, Lender shall have received, (i) a certified copy of the Ground Lease for the Substitute Property, together with all amendments and modifications thereto and a recorded memorandum thereof, which Ground Lease would be reasonably satisfactory in all respects to a prudent institutional mortgage loan lender and which contains customary leasehold mortgagee provisions and protections, and which

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shall provide, among other things, (A) for a remaining term of no less than the greater of (1) 20 years from the Maturity Date or (2) 10 years from the end of the scheduled amortization term of the Loan, (B) that the Ground Lease shall not be terminated until Lender has received notice of a default thereunder and has had a reasonable opportunity to cure or complete foreclosure, and fails to do so in a diligent manner, (C) for a new lease on the same terms to Lender as tenant if the Ground Lease is terminated for any reason, (D) the non-merger of fee and leasehold interests, and (E) that insurance proceeds and condemnation awards (from the fee interest as well as the leasehold interest) will be applied pursuant to the terms of this Agreement, and (ii) a ground lease estoppel executed by the fee owner and ground lessor of the Substitute Property, reasonably acceptable to a prudent institutional mortgage loan lender.

(cc) Borrower shall submit to Lender, not less than twenty (20) Business Days prior to the date of such substitution, a release of Lien (and related Loan Documents) for the Release Property for execution by Lender. Such release shall be in a form appropriate for the jurisdiction in which the Release Property is located and shall contain standard provisions, if any, protecting the rights of the releasing lender;

(dd) In the event the Release Property is a mobile home park, no portion of the Substitute Property shall be used as a recreational vehicle park;

(ee) Borrower shall deliver an Officers Certificate certifying that the requirements set forth in this Section 2.5 have been satisfied; and

(ff) the entity that is Borrower under the Loan is either (i) the entity that was Borrower under the Loan as of the Closing Date (the "ORIGINAL BORROWER") or (ii) an entity Controlled by Borrower Principal and in which Borrower Principal owns directly or indirectly, at least a 51% interest (a "BORROWER PRINCIPAL AFFILIATE").

Upon the satisfaction of the foregoing conditions precedent, Lender will release its Lien from the Release Property and the Substitute Property shall be deemed to be the Property for purposes of this Agreement.

#### SECTION 2.6. PAYMENTS AFTER DEFAULT

Upon the occurrence and during the continuance of an Event of Default, interest on the outstanding principal balance of the Loan and, to the extent permitted by law, overdue interest and other amounts due in respect of the Loan, (a) shall accrue at the Default Rate, and (b) Lender shall be entitled to receive and Borrower shall pay to Lender all cash flow from the Property in accordance with the terms of Article X hereof, such amount to be applied by Lender to the payment of the Debt in such order as Lender shall determine in its sole discretion, including, without limitation, alternating applications thereof between interest and principal. Interest at the Default Rate shall be computed

from the occurrence of the Event of Default until the earlier of (i) the actual receipt and collection of the Debt (or that portion thereof that is then due) and (ii) the cure of such Event of Default. To the extent permitted by applicable law, interest at the Default Rate shall be added to the Debt, shall itself accrue interest at the same rate as the Loan and shall be secured by the Mortgage. This paragraph shall not be construed as an agreement or privilege to extend the date of the payment of the Debt, nor as a waiver of any other right or

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remedy accruing to Lender by reason of the occurrence of any Event of Default; the acceptance of any payment from Borrower shall not be deemed to cure or constitute a waiver of any Event of Default; and Lender retains its rights under this Agreement to accelerate and to continue to demand payment of the Debt upon the happening of and during the continuance any Event of Default, despite any payment by Borrower to Lender.

#### SECTION 2.7. USURY SAVINGS

This Agreement and the Note are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the principal balance of the Loan at a rate which could subject Lender to either civil or criminal liability as a result of being in excess of the Maximum Legal Rate. If, by the terms of this Agreement or the other Loan Documents, Borrower is at any time required or obligated to pay interest on the principal balance due hereunder at a rate in excess of the Maximum Legal Rate, the Note Rate or the Default Rate, as the case may be, shall be deemed to be immediately reduced to the Maximum Legal Rate and all previous payments in excess of the Maximum Legal Rate shall be deemed to have been payments in reduction of principal and not on account of the interest due hereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the sums due under the Loan, shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount of interest on account of the Loan does not exceed the Maximum Legal Rate of interest from time to time in effect and applicable to the Loan for so long as the Loan is outstanding. Borrower hereby agrees to pay an effective rate of interest that is the sum of the interest rate provided for herein, together with any additional interest or rate of interest resulting from any other charges of interest or in the nature of interest paid or to be paid in connection with the Loan, including, without limitation, any fees to be paid by Borrower pursuant to the provisions of any and/or all of the Loan Documents. Lender and Borrower agree that none of the terms and provisions contained herein or in any of the Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the Maximum Legal Rate.

#### ARTICLE 3 CONDITIONS PRECEDENT

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

#### SECTION 3.1. REPRESENTATIONS AND WARRANTIES; COMPLIANCE WITH CONDITIONS

The representations and warranties of Borrower contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of such date, and Lender shall have determined that no Default or an Event of Default shall have occurred and be continuing nor will any Default or Event of Default occur immediately following the Closing Date; and Borrower shall be in compliance in all material respects with all terms and conditions set forth in this Agreement and in each other Loan Document on its part to be observed or performed.

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SECTION 3.2. DELIVERY OF LOAN DOCUMENTS; TITLE INSURANCE; REPORTS;  
LEASES

(a) Mortgage, Loan Agreement and Note. Lender shall have received from Borrower a fully executed and acknowledged counterpart of the Mortgage and evidence that counterparts of the Mortgage and Uniform Commercial Code financing statements have been delivered to the title company for recording, in the reasonable judgment of Lender, so as to effectively create upon such recording valid and enforceable Liens upon the Property, of the requisite priority, in favor of Lender (or such other trustee as may be required or desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents. Lender shall have also received from Borrower fully executed counterparts of the Environmental Indemnity (if applicable), this Agreement, the Note and Assignment of Management Agreement and all other Loan Documents.

(b) Title Insurance. Lender shall have received a Title Insurance Policy issued by a title company acceptable to Lender and dated as of the Closing Date. Such Title Insurance Policy shall (i) provide coverage in the amount of the Loan, (ii) insure Lender that the Mortgage creates a valid lien on the Property of the requisite priority, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified by the terms of any endorsements), (iii) contain such endorsements and affirmative coverages as Lender may reasonably request, and (iv) name Lender as the insured. The Title Insurance Policy shall be assignable. Lender also shall have received evidence that all premiums in respect of such Title Insurance Policy have been paid.

(c) Survey. Lender shall have received a current title survey for the Property, certified to the title company and Lender and their successors and assigns, in form and content satisfactory to Lender and prepared by a professional and properly licensed land surveyor satisfactory to Lender in accordance with the 1999 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys. The survey shall meet the classification of an "Urban Survey" and the following additional items from the list of "Optional Survey Responsibilities and Specifications" (Table A) should be added to each survey: 2, 3, 4, 6, 8, 9, 10 and 11(a) (excluding individual manufactured home pads and individual parking spaces provided the applicable surveyor certifies that the same do not violate any boundaries, setbacks or easements). Such survey shall reflect the same legal description contained in the Title Insurance Policy referred to in subsection (b) above and shall include, among other things, a metes and bounds or recorded plat description of the real property comprising part of the Property reasonably satisfactory to Lender. The surveyor's seal shall be affixed to the survey and the surveyor shall provide a certification for each survey in form and substance acceptable to Lender.

(d) Insurance. Lender shall have (i) had an opportunity to have its insurance representative review copies of the Policies required hereunder, (ii) received certificates with respect to the Policies and (iii) received evidence of the payment of all Insurance Premiums payable for the existing policy period all of which shall be satisfactory to Lender in its sole discretion. In no event shall Borrower be required to provide terrorism insurance.

(e) Environmental Reports. Lender shall have received an Environmental Report in respect of the Property satisfactory to Lender.

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(f) Zoning/Building Code. Lender shall have received evidence of compliance with zoning and building ordinances and codes, including, without limitation, required certificates of occupancy for any permanent structure, reasonably acceptable to Lender.

(g) Encumbrances. Borrower shall have taken or caused to be taken such actions in such a manner so that Lender has a valid and perfected first Lien as of the Closing Date on the Property, subject only to applicable Permitted

Encumbrances and such other Liens as are permitted pursuant to the Loan Documents, and Lender shall have received satisfactory evidence thereof.

(h) Lien Searches. Lender shall have received certified search results pertaining to Borrower, Borrower Principal and such other Persons or any SPE Component Entity as reasonably required by Lender for state and federal tax liens, bankruptcy, judgment, litigation and state and local UCC filings

#### SECTION 3.3. RELATED DOCUMENTS

Each additional document not specifically referenced herein, but relating to the transactions contemplated herein, shall have been duly authorized, executed and delivered by all parties thereto and at Lender's written request, Lender shall have received and approved certified copies thereof.

#### SECTION 3.4. ORGANIZATIONAL DOCUMENTS

On or before the Closing Date, Borrower shall deliver or cause to be delivered to Lender (a) copies certified by Borrower of all organizational documentation related to Borrower, each SPE Component Entity and Borrower Principal which must be acceptable to Lender in its reasonable discretion, and (b) such other evidence of the formation, structure, existence, good standing and/or qualification to do business of Borrower, each SPE Component Entity and Borrower Principal, as Lender may request in its reasonable discretion, including, without limitation, good standing or existence certificates, qualifications to do business in the appropriate jurisdictions, resolutions authorizing the entering into of the Loan and incumbency certificates as may be requested by Lender.

#### SECTION 3.5. OPINIONS OF BORROWER'S COUNSEL

Lender shall have received opinions of Borrower's counsel (a) with respect to non-consolidation issues (if the amount of the Loan equals or exceeds \$20,000,000) and (b) with respect to due execution, authority, enforceability of the Loan Documents and such other matters as Lender may require, all such opinions in form, scope and substance satisfactory to Lender and Lender's counsel in their sole discretion.

#### SECTION 3.6. ANNUAL BUDGET

Borrower shall have delivered to Lender an annual budget for the current fiscal year.

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#### SECTION 3.7. TAXES AND OTHER CHARGES

Borrower shall have paid all Taxes and Other Charges (including any in arrears) relating to the Property, which amounts may be funded with proceeds of the Loan.

#### SECTION 3.8. COMPLETION OF PROCEEDINGS

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

#### SECTION 3.9. PAYMENTS

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

#### SECTION 3.10. TRANSACTION COSTS

Except as otherwise expressly provided herein, Borrower shall have paid or reimbursed Lender for all reasonable out of pocket expenses in connection with the underwriting, negotiation, and closing of the Loan, including title insurance premiums and other title company charges; recording, registration, filing and similar fees, taxes and charges; transfer, mortgage, deed, stamp or documentary taxes or similar fees or charges; costs of third-party reports, including without limitation, environmental studies, credit reports, seismic reports, engineer's reports, appraisals and surveys; underwriting and origination expenses; and all actual, reasonable legal fees and expenses charged by counsel to Lender.

#### SECTION 3.11. NO MATERIAL ADVERSE CHANGE

There shall have been no material adverse change in the financial condition or business condition of the Property, Borrower, Borrower Principal, any SPE Component Entity or Manager since the date of the most recent financial statements and/or other information delivered to Lender. The income and expenses of the Property, the occupancy and leases thereof, and all other features of the transaction shall be as represented to Lender without material adverse change. Neither Borrower nor Borrower Principal, any SPE Component Entity or Affiliated Manager shall be the subject of any bankruptcy, reorganization, or insolvency proceeding.

#### SECTION 3.12. LEASES AND RENT ROLL

Lender shall have received copies of all Major Leases affecting the Property, which shall be satisfactory in form and substance to Lender. Lender shall have received a current certified rent roll of the Property, reasonably satisfactory in form and substance to Lender.

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#### SECTION 3.13. INTENTIONALLY DELETED.

#### SECTION 3.14. INTENTIONALLY DELETED.

#### SECTION 3.15. INTENTIONALLY DELETED.

#### SECTION 3.16. TAX LOT

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

#### SECTION 3.17. PHYSICAL CONDITIONS REPORT

Lender shall have received a Physical Conditions Report with respect to the Property, which report shall be reasonably satisfactory in form and substance to Lender.

#### SECTION 3.18. MANAGEMENT AGREEMENT

Lender shall have received a certified copy of the Management Agreement with respect to the Property which shall be satisfactory in form and substance to Lender.

#### SECTION 3.19. APPRAISAL

Lender shall have received an appraisal of the Property, which shall be satisfactory in form and substance to Lender.

#### SECTION 3.20. FINANCIAL STATEMENTS

Lender shall have received financial statements and related information in form and substance satisfactory to Lender and in compliance with any Legal Requirements promulgated by the Securities and Exchange Commission, including,

without limitation, a balance sheet, income and expense statement and statement of cash flows with respect to MHC (on a consolidated basis with MHCOP) and an operating statement with respect to the Property for the year-to-date 2003, 2002, 2001, 2000 and 1999.

SECTION 3.21. INTENTIONALLY DELETED

SECTION 3.22. FURTHER DOCUMENTS

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

ARTICLE 4  
REPRESENTATIONS AND WARRANTIES

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Borrower and, with respect to Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31, 4.39, and 4.40, each Borrower Principal represents and warrants to Lender as of the Closing Date that:

SECTION 4.1. ORGANIZATION

Borrower and each Borrower Principal (when not an individual) (a) has been duly organized and is validly existing and in good standing with requisite power and authority to own its properties and to transact the businesses in which it is now engaged, (b) is duly qualified to do business and is in good standing in each jurisdiction where it is required to be so qualified in connection with its properties, businesses and operations, (c) to the best of Borrower's knowledge, possesses all material rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to own its properties and to transact the businesses in which it is now engaged, and the sole business of Borrower is the ownership, management and operation of the Property, and (d) in the case of Borrower, has full power, authority and legal right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to the terms of the Loan Documents, and in the case of Borrower and each Borrower Principal, has full power, authority and legal right to keep and observe all of the terms of the Loan Documents to which it is a party. Borrower and each Borrower Principal represent and warrant that the chart attached hereto as Exhibit B sets forth an accurate listing of the direct and indirect owners of the equity interests in Borrower and each SPE Component Entity (if any).

SECTION 4.2. STATUS OF BORROWER

Borrower's exact legal name is correctly set forth on the first page of this Agreement, on the Mortgage and on any UCC-1 Financing Statements filed in connection with the Loan. Borrower is an organization of the type specified on the first page of this Agreement. Borrower is incorporated in or organized under the laws of the state of Delaware. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of Borrower) the address of Borrower set forth on the first page of this Agreement. Borrower's organizational identification number, if any, assigned by the state of incorporation or organization is set forth on Schedule 1, attached hereto.

SECTION 4.3. VALIDITY OF DOCUMENTS

Borrower and each Borrower Principal have taken all necessary action to authorize the execution, delivery and performance of this Agreement and the other Loan Documents to which they are parties. This Agreement and such other

Loan Documents have been duly executed and delivered by or on behalf of Borrower and each Borrower Principal and constitute the legal, valid and binding obligations of Borrower and each Borrower Principal enforceable against Borrower and each Borrower Principal in accordance with their respective terms, subject only to applicable bankruptcy, insolvency and similar laws affecting rights of creditors generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

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#### SECTION 4.4. NO CONFLICTS

The execution, delivery and performance of this Agreement and the other Loan Documents by Borrower and each Borrower Principal will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance (other than pursuant to the Loan Documents) upon any of the property or assets of Borrower or any Borrower Principal pursuant to the terms of any agreement or instrument to which Borrower or any Borrower Principal is a party or by which any of Borrower's or Borrower Principal's property or assets is subject, nor to the best of Borrower's knowledge will such action result in any violation of the provisions of any statute or any order, rule or regulation of any Governmental Authority having jurisdiction over Borrower or any Borrower Principal or any of Borrower's or Borrower Principal's properties or assets, and any consent, approval, authorization, order, registration or qualification of or with any Governmental Authority required for the execution, delivery and performance by Borrower or Borrower Principal of this Agreement or any of the other Loan Documents has been obtained and is in full force and effect.

#### SECTION 4.5. LITIGATION

There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other agency now pending or, to Borrower's or Borrower Principal's knowledge, threatened against or affecting Borrower, any Borrower Principal, Manager or the Property, which actions, suits or proceedings, if determined against Borrower, any Borrower Principal, Manager or the Property, would materially adversely affect the condition (financial or otherwise) or business of Borrower or any Borrower Principal or the condition or ownership of the Property other than as disclosed in Schedule 4.5 attached hereto.

#### SECTION 4.6. AGREEMENTS

Borrower is not a party to any agreement or instrument or subject to any restriction which would materially and adversely affect Borrower or the Property, or Borrower's business, properties or assets, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party or by which Borrower or the Property is bound. Borrower has no material financial obligation under any agreement or instrument to which Borrower is a party or by which Borrower or the Property is otherwise bound, other than (a) obligations incurred in the ordinary course of the operation of the Property and (b) obligations under the Loan Documents.

#### SECTION 4.7. SOLVENCY

Borrower and each Borrower Principal have (a) not entered into the transaction or executed the Note, this Agreement or any other Loan Documents with the actual intent to hinder, delay or defraud any creditor and (b) received reasonably equivalent value in exchange for their obligations under such Loan Documents. Giving effect to the Loan, the fair saleable value of the assets of Borrower and each Borrower Principal exceeds and will, immediately following the making of the Loan, exceed the total liabilities of Borrower and each Borrower Principal,



including, without limitation, subordinated, unliquidated, disputed and contingent liabilities. No petition in bankruptcy has been filed against Borrower, any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years, and neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years has made an assignment for the benefit of creditors or taken advantage of any Creditors Rights Laws. Neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager is contemplating either the filing of a petition by it under any Creditors Rights Laws or the liquidation of all or a major portion of Borrower's assets or property, and Borrower has no knowledge of any Person contemplating the filing of any such petition against Borrower or any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager.

#### SECTION 4.8. FULL AND ACCURATE DISCLOSURE

To the best of Borrower's knowledge, no statement of fact made by or on behalf of Borrower or any Borrower Principal in this Agreement or in any of the other Loan Documents or in any other document or certificate delivered by or on behalf of Borrower or any Borrower Principal contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no material fact presently known to Borrower or any Borrower Principal which has not been disclosed to Lender which materially and adversely affects, nor as far as Borrower or any Borrower Principal can reasonably foresee, might materially and adversely affect, the Property or the business, operations or condition (financial or otherwise) of Borrower or any Borrower Principal.

#### SECTION 4.9. NO PLAN ASSETS

Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101. In addition, (a) Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (b) transactions by or with Borrower are not subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans similar to the provisions of Section 406 of ERISA or Section 4975 of the Internal Revenue Code currently in effect, which prohibit or otherwise restrict the transactions contemplated by this Agreement.

#### SECTION 4.10. NOT A FOREIGN PERSON

Neither Borrower nor Borrower Principal is a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code.

#### SECTION 4.11. ENFORCEABILITY

The Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense by Borrower, including the defense of usury, nor would the operation of any of the terms of the Loan Documents, or the exercise of any right thereunder, render the Loan Documents unenforceable, and neither Borrower nor Borrower Principal has asserted any right of rescission, set-off, counterclaim or defense with respect thereto. No Default or Event of Default exists under or with respect to any Loan Document.

#### SECTION 4.12. BUSINESS PURPOSES

The Loan is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

#### SECTION 4.13. COMPLIANCE

To the best of Borrower's knowledge, Borrower and the Property, and the use and operation thereof, comply in all material respects with all Legal Requirements, including, without limitation, building and zoning ordinances and codes and the Americans with Disabilities Act except as expressly disclosed in any written materials furnished by Borrower to Lender or as expressly disclosed in any physical condition report or environmental report received by Lender in connection with the closing of the Loan. To Borrower's knowledge, Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority and Borrower has received no written notice of any such default or violation which if determined against Borrower or the Property would materially adversely affect Borrower or the Property. There has not been committed by Borrower or, to Borrower's knowledge, any other Person in occupancy of or involved with the operation or use of the Property any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

#### SECTION 4.14. FINANCIAL INFORMATION

All financial data, including, without limitation, the balance sheets, statements of cash flow, statements of income and operating expense and rent rolls, that have been delivered to Lender in respect of Borrower, any Borrower Principal and/or the Property (a) are true, complete and correct in all material respects, (b) accurately represent the financial condition of Borrower, Borrower Principal or the Property, as applicable, as of the date of such reports, and (c) to the extent prepared or audited by an independent certified public accounting firm, have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein. To Borrower's actual knowledge after due inquiry, Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and reasonably likely to have a material adverse effect on the Property or the current and/or intended operation thereof, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower or Borrower Principal from that set forth in said financial statements.

#### SECTION 4.15. CONDEMNATION

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

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#### SECTION 4.16. UTILITIES AND PUBLIC ACCESS; PARKING

The Property (i) has adequate rights of access to public ways directly, or indirectly, pursuant to private easements which have been adequately insured under the Title Insurance Policy and (ii) is served by water, sewer, sanitary sewer and storm drain facilities which, to the best of Borrower's knowledge, are adequate to service the Property for full utilization of the Property for its intended uses. All public utilities necessary to the full use and enjoyment of the Property as currently used and enjoyed are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded easements serving the Property and such easements are set forth in and insured by the Title Insurance Policy. All roads necessary for the use of the Property for its current purposes have been completed and dedicated to public use and accepted by all Governmental Authorities. The Property has, or is served by, parking to the extent required to comply with all Legal Requirements in all material respects.

#### SECTION 4.17. SEPARATE LOTS

The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof.

#### SECTION 4.18. ASSESSMENTS

To Borrower's knowledge after due inquiry, there are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, nor are there any contemplated improvements to the Property that may result in such special or other assessments.

#### SECTION 4.19. INSURANCE

Borrower has obtained and has delivered to Lender certified copies of all Policies or, to the extent such Policies are not available as of the Closing Date, certificates of insurance with respect to all such Policies reflecting the insurance coverages, amounts and other requirements set forth in this Agreement. No claims have been made under any of the Policies, and to Borrower's knowledge, no Person, including Borrower, has done, by act or omission, anything which would impair the coverage of any of the Policies.

#### SECTION 4.20. USE OF PROPERTY

The Property is used exclusively for mobile home community and/or recreational vehicle resort purposes, as applicable, and other appurtenant and related uses.

#### SECTION 4.21. CERTIFICATE OF OCCUPANCY; LICENSES

All material certifications, permits, licenses and approvals, including, without limitation, certificates of completion or occupancy and any applicable liquor license required for the legal use, occupancy and operation of the Property for the purpose intended herein, have been obtained and are valid and in full force and effect. Borrower shall keep and maintain all licenses

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necessary for the operation of the Property for the purpose intended herein. The use being made of the Property is in conformity with any certificates of occupancy and any permits or licenses issued for the Property. The Property contains all equipment necessary to use and operate the Property as a mobile home community and/or recreational vehicle resort, as applicable.

#### SECTION 4.22. FLOOD ZONE

None of the Improvements on the Property are located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards, or, if any portion of the Improvements is located within such area, Borrower has obtained the insurance prescribed in Section 8.1(a)(i).

#### SECTION 4.23. PHYSICAL CONDITION

To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report delivered to Lender in connection with the closing of the Loan, the Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems (including, but not limited to, liquid and solid waste disposal, septic and sewer systems), HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects. To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report delivered to Lender in connection with the closing of the Loan, there exists no structural or other material defects or damages in the Property, as a result of a Casualty or otherwise, and whether latent or otherwise. Borrower has not

received notice from any insurance company or bonding company of any defects or inadequacies in the Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

#### SECTION 4.24. BOUNDARIES

(a) Except as disclosed in the Survey of the Property delivered to Lender in connection with the closing of the Loan and for which adequate insurance has been obtained under the Title Insurance Policy, none of the Improvements which were included in determining the appraised value of the Property lie outside the boundaries and building restriction lines of the Property to any material extent, and (b) no improvements on adjoining properties encroach upon the Property and no easements or other encumbrances upon the Property encroach upon any of the Improvements so as to materially affect the value or marketability of the Property and for which title endorsements that are reasonably acceptable to Lender have not been obtained.

#### SECTION 4.25. LEASES AND RENT ROLL

Borrower has delivered to Lender a true, correct and complete rent roll for the Property (a "RENT ROLL") which includes all Leases affecting the Property and contains an aging report setting forth past due amounts with respect to the Tenants; provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort, written Leases are not used in the ordinary course of the Property's operation. Except as set forth in the

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Rent Roll (as same has been updated by written notice thereof to Lender): (a) each Lease is in full force and effect; (b) the premises demised under any Major Leases have been completed and the Tenants under the Leases have accepted possession of and are in occupancy of all of their respective demised premises; (c) the Tenants under the Leases have commenced the payment of rent under the Leases, and except as expressly permitted under applicable law, there are no offsets, claims or defenses to the enforcement thereof, and Borrower has no outstanding monetary obligations to any Tenant under any Lease; (d) all Rents due and payable under any Major Leases have been paid and no portion thereof has been paid for any period more than thirty (30) days in advance; (e) the rent payable under each Lease is the amount of fixed rent set forth in the Rent Roll, and there is no claim or basis for a claim by the Tenant thereunder for an offset or adjustment to the rent; (f) (1) no Tenant has made any written claim of a material default against the landlord under any Major Lease which remains outstanding nor has Borrower or Manager received, by telephonic, in-person, e-mail or other communication, any notice of a material default under any Lease and (2) no more than five percent (5%) of Tenants under pad leases have made any written claims of material defaults from against the landlord which remain outstanding nor has Borrower or Manager received any written notice of material defaults from greater than five percent (5%) of the Tenants under such Leases; (g) to Borrower's knowledge there is no present material default by a Tenant under any Major Lease; (h) all security deposits under the Leases have been collected by Borrower; (i) Borrower is the sole owner of the entire landlord's interest in each Lease; (j) each Lease is the valid, binding and enforceable obligation of Borrower and the applicable Tenant thereunder and there are no agreements with the Tenants under any Major Leases other than as expressly set forth in the Leases; (k) no Person has any possessory interest in, or right to occupy, the Property or any portion thereof except under the terms of a Lease (or as otherwise provided for under applicable law); provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort (and for so long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan), written Leases are not used in the ordinary course of the Property's operation; (l) none of the Leases contains any option or offer to purchase or right of first refusal to purchase the Property or any part thereof, except to the extent such rights of first refusal are provided to Tenants (occupying the Property under pad Leases) or a

homeowner's association, solely as the result of applicable Legal Requirements; (m) neither the Leases nor the Rents have been assigned, pledged or hypothecated except to Lender, and no other Person has any interest therein except the Tenants thereunder; and (n) no conditions exist which now give any Tenant or party the right to "go dark" pursuant to the provision of any Major Lease and/or the any REA. In the event there are any Leases affecting the Property relating to laundry facilities (each, a "LAUNDRY LEASE"), none of any such Laundry Leases (A) provides that the Tenant under such Laundry Lease shall be entitled to any proceeds payable in connection with a Casualty of Condemnation, (B) contains any option or offer to purchase or right of first refusal or right of first offer to purchase the Property or any part thereof, (C) comprises a material portion of the Property or (D) imposes any material obligations upon Borrower.

#### SECTION 4.26. FILING AND RECORDING TAXES

All mortgage, mortgage recording, stamp, intangible or other similar tax required to be paid by any Person under applicable Legal Requirements currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, the Mortgage, have been paid or will be paid,

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and, under current Legal Requirements, the Mortgage is enforceable in accordance with its terms by Lender (or any subsequent holder thereof).

#### SECTION 4.27. MANAGEMENT AGREEMENT

The Management Agreement is in full force and effect and there is no default thereunder by any party thereto and, to Borrower's knowledge, no event has occurred that, with the passage of time and/or the giving of notice would constitute a default thereunder. No management fees under the Management Agreement are accrued and unpaid.

#### SECTION 4.28. ILLEGAL ACTIVITY

No portion of the Property has been or will be purchased with proceeds of any illegal activity, and no part of the proceeds of the Loan will be used in connection with any illegal activity.

#### SECTION 4.29. CONSTRUCTION EXPENSES

All costs and expenses of any and all labor, materials, supplies and equipment used in the construction maintenance or repair of the Improvements have been paid in full or to the extent any such costs and expenses have resulted in a Lien against the Property, the Title Insurance Policy provides Lender satisfactory affirmative insurance with respect to such Lien. To Borrower's knowledge after due inquiry, there are no claims for payment for work, labor or materials affecting the Property which are or may become a lien prior to, or of equal priority with, the Liens created by the Loan Documents.

#### SECTION 4.30. PERSONAL PROPERTY

Borrower has paid in full for, and is the owner of, all Personal Property (other than tenants' property) used in connection with the operation of the Property, free and clear of any and all security interests, liens or encumbrances, except for Permitted Encumbrances and the Lien and security interest created by the Loan Documents.

#### SECTION 4.31. TAXES

Borrower and Borrower Principal have filed all federal, state, county, municipal, and city income, personal property and other tax returns required to have been filed by them and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Borrower nor Borrower Principal knows of any basis for any additional assessment in respect of any such taxes and related liabilities for

prior years.

#### SECTION 4.32. PERMITTED ENCUMBRANCES

None of the Permitted Encumbrances, individually or in the aggregate, materially interferes with the benefits of the security intended to be provided by the Loan Documents, materially and adversely affects the value of the Property, impairs the use or the operation of the Property or impairs Borrower's ability to pay its obligations in a timely manner.

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#### SECTION 4.33. FEDERAL RESERVE REGULATIONS

Borrower will use the proceeds of the Loan for the purposes set forth in Section 2.1(d) hereof and not for any illegal activity. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Legal Requirements or prohibited by the terms and conditions of this Agreement or the other Loan Documents.

#### SECTION 4.34. INVESTMENT COMPANY ACT

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

#### SECTION 4.35. RECIPROCAL EASEMENT AGREEMENTS

(a) Neither Borrower, nor any other party is currently in default (nor has any notice been given or received with respect to an alleged or current default) under any of the terms and conditions of any REA, and any such REA remains unmodified and in full force and effect;

(b) All easements granted pursuant to any REA which were to have survived the site preparation and completion of construction (to the extent that the same has been completed), remain in full force and effect and have not been released, terminated, extinguished or discharged by agreement or otherwise;

(c) All sums due and owing by Borrower to the other parties to any REA (or by the other parties to any such REA to Borrower) pursuant to the terms of any such REA, including without limitation, all sums, charges, fees, assessments, costs, and expenses in connection with any taxes, site preparation and construction, non-shareholder contributions, and common area and other property management activities have been paid, are current, and no lien has attached on the Property (or threat thereof been made) for failure to pay any of the foregoing;

(d) The terms, conditions, covenants, uses and restrictions contained in any REA do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk placement, tenant restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions; and

(e) The terms, conditions, covenants, uses and restrictions contained in each Lease do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any REA, any other Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk

placement, tenant restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions.

SECTION 4.36. NO CHANGE IN FACTS OR CIRCUMSTANCES; DISCLOSURE

All information submitted by Borrower or its agents to Lender and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the Loan or in satisfaction of the terms thereof and all statements of fact made by Borrower in this Agreement or in any other Loan Document, are accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that otherwise materially and adversely affects or, to the best of Borrower's knowledge, could reasonably be expected to materially and adversely affect the Property or the business operations or the financial condition of Borrower. To the best of Borrower's knowledge, Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading.

SECTION 4.37. INTELLECTUAL PROPERTY

All trademarks, trade names and service marks necessary to the business of Borrower as presently conducted or as Borrower contemplates conducting its business are in good standing and, to the extent of Borrower's actual knowledge, uncontested. Borrower has not infringed, is not infringing, and has not received notice of infringement with respect to asserted trademarks, trade names and service marks of others. To Borrower's knowledge, there is no infringement by others of trademarks, trade names and service marks of Borrower.

SECTION 4.38. SURVEY

The Survey for the Property delivered to Lender in connection with this Agreement has been prepared in accordance with the provisions of Section 3.2(c) hereof, and to the actual knowledge of Borrower does not fail to reflect any material matter affecting the Property or the title thereto, which was required to be set forth therein pursuant to Section 3.2(c) hereof.

SECTION 4.39. EMBARGOED PERSON

As of the date hereof and at all times throughout the term of the Loan, including after giving effect to any transfers of interests permitted pursuant to the Loan Documents, (a) (1) none of the funds or other assets of Borrower constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government and (2) none of the funds or other assets of Borrower Principal constitute property of, or are beneficially owned, directly or indirectly by any person, entity or government owning, directly or indirectly, greater than a 10% interest in Borrower Principal, that is subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Borrower or Borrower Principal, as applicable (whether directly or indirectly), is prohibited by law or the Loan made by Lender is in violation of law ("EMBARGOED PERSON"); (b) no Embargoed Person has any interest

of any nature whatsoever in Borrower or Borrower Principal, as applicable, with the result that the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower or Borrower Principal, as applicable, have been derived from any unlawful activity with the result that

the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

#### SECTION 4.40. PATRIOT ACT

All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including Executive Order 13224 effective September 24, 2001 (collectively referred to in this Section only as the "PATRIOT ACT") and are incorporated into this Section. Each of Borrower and Borrower Principal hereby represents and warrants that Borrower and Borrower Principal and each and every Person affiliated with Borrower or owning directly or indirectly greater than a 10% interest in Borrower Principal or that to Borrower's knowledge has an economic interest in Borrower, or, to Borrower's knowledge, that has or will have an interest in the transaction contemplated by this Agreement or in the Property or will participate, in any manner whatsoever, in the Loan, is: (i) not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 and all modifications thereto or thereof (as used in this Section only, the "ANNEX"); (ii) in full compliance with the requirements of the Patriot Act and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (as used in this Section only, "OFAC"); (iii) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Act and available to Lender for Lender's review and inspection during normal business hours and upon reasonable prior notice; (iv) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (v) not listed as a Specially Designated Terrorist or as a "blocked" person on any lists maintained by the OFAC pursuant to the Patriot Act or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Act or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Act; (vi) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (vii) not owned or controlled by or now acting and or will in the future act for or on behalf of any person named in the Annex or any other list promulgated under the Patriot Act or any other person who has been determined to be subject to the prohibitions contained in the Patriot Act. Borrower covenants and agrees that in the event Borrower receives any notice that Borrower Principal or Borrower (or any of its beneficial owners or affiliates or participants) become listed on the Annex or any other list promulgated under the Patriot Act or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender. It shall be an Event of Default hereunder if Borrower, Borrower Principal or any other party to any Loan Document becomes listed on any list promulgated under the Patriot Act or is indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.

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#### SECTION 4.41. INTENTIONALLY DELETED.

#### SECTION 4.42. SURVIVAL

Borrower agrees that, unless expressly provided otherwise, all of the representations and warranties of Borrower set forth in this Agreement and elsewhere in this Agreement and in the other Loan Documents shall survive for so long as any portion of the Debt remains owing to Lender. All representations, warranties, covenants and agreements made in this Agreement or in the other Loan Documents by Borrower shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.



## BORROWER COVENANTS

From the date hereof and until repayment of the Debt in full and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Lien of the Mortgage (and all related obligations) in accordance with the terms of this Agreement and the other Loan Documents, Borrower hereby covenants and agrees with Lender that:

### SECTION 5.1. EXISTENCE; COMPLIANCE WITH LEGAL REQUIREMENTS

(a) Borrower shall do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence, rights, licenses, permits and franchises and comply in all material respects with all Legal Requirements applicable to it and the Property. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the Legal Requirements affecting the Property, provided that (i) no Default or Event of Default has occurred and is continuing; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower or the Property is subject and shall not constitute a default thereunder; (iii) neither the Property, any part thereof or interest therein, any of the tenants or occupants thereof, nor Borrower shall be affected in any material adverse way as a result of such proceeding; (iv) non-compliance with the Legal Requirements shall not impose civil or criminal liability on Borrower or Lender; (v) Borrower shall have furnished the security as may be required in the proceeding or by Lender to ensure compliance by Borrower with the Legal Requirements; and (vi) Borrower shall have furnished to Lender all other items reasonably requested by Lender.

### SECTION 5.2. MAINTENANCE AND USE OF PROPERTY

Borrower shall cause the Property to be maintained in a good and safe condition and repair. The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of Personal Property) other than in accordance with the provisions of Section 5.21 without the prior written consent of Lender. If under

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applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

### SECTION 5.3. WASTE

Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security for the Loan. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Property, regardless of the depth thereof or the method of mining or extraction thereof.

### SECTION 5.4. TAXES AND OTHER CHARGES

(a) Borrower shall pay all Taxes and Other Charges now or hereafter levied or assessed or imposed against the Property or any part thereof no later

than ten (10) Business Days prior to the date on which such Taxes or Other Charges would be delinquent; provided, however, Borrower's obligation to directly pay Taxes shall be suspended for so long as Borrower complies with the terms and provisions of Section 9.6 hereof. Borrower shall furnish to Lender receipts (or copies of checks and transmittal letters evidencing the payment of such Taxes or Other Charges) for the payment of the Taxes and the Other Charges prior to the date the same shall become delinquent (provided, however, that Borrower is not required to furnish such receipts for payment of Taxes in the event that such Taxes have been paid by Lender pursuant to Section 9.6 hereof). Subject to any rights of Borrower under this Agreement to contest Liens, Borrower shall not suffer and shall promptly cause to be paid and discharged any Lien or charge whatsoever which may be or become a Lien or charge against the Property, and shall promptly pay for all utility services provided to the Property, except to the extent the costs of such utility services are not payable by Borrower and are billed to Tenants at the Property.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any Taxes or Other Charges, provided that (i) no Event of Default has occurred and remains uncured; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable Legal Requirements; (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost; (iv) Borrower shall promptly upon final determination thereof pay the amount of any such Taxes or Other Charges, together with all costs, interest and penalties which may be payable in connection therewith; (v) such proceeding shall suspend the collection of such contested Taxes or Other Charges from the Property; and (vi) Borrower shall furnish such security as may be required in the proceeding, or, in the event that neither Original Borrower nor a Borrower Principal Affiliate is Borrower under the Loan, deliver to Lender such

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reserve deposits as may be requested by Lender, to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon (unless Borrower has paid all of the Taxes or Other Charges under protest). Lender may pay over any such cash deposit or part thereof held by Lender to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established or the Property (or part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, canceled or lost or there shall be any danger of the Lien of the Mortgage being primed by any related Lien.

#### SECTION 5.5. LITIGATION

Borrower shall give prompt written notice to Lender of any litigation or governmental proceedings pending or threatened in writing against Borrower which could reasonably be expected to materially adversely affect Borrower's condition (financial or otherwise) or business or the Property.

#### SECTION 5.6. ACCESS TO PROPERTY

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

#### SECTION 5.7. NOTICE OF DEFAULT

Borrower shall promptly advise Lender of any material adverse change in the condition (financial or otherwise) of Borrower, any Borrower Principal or the Property or of the occurrence of any Default or Event of Default of which Borrower has knowledge.

SECTION 5.8. COOPERATE IN LEGAL PROCEEDINGS

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

SECTION 5.9. PERFORMANCE BY BORROWER

Borrower shall in a timely manner observe, perform and fulfill each and every covenant, term and provision to be observed and performed by Borrower under this Agreement and the other Loan Documents and any other agreement or instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

SECTION 5.10. AWARDS; INSURANCE PROCEEDS

Borrower shall cooperate with Lender in obtaining for Lender the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with the Property, and Lender shall be reimbursed for any expenses incurred in connection therewith (including reasonable, actual attorneys' fees and disbursements, and the payment by Borrower of the expense of an

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appraisal on behalf of Lender in case of a Casualty or Condemnation affecting the Property or any part thereof) out of such Awards or Insurance Proceeds.

SECTION 5.11. FINANCIAL REPORTING

(a) Borrower and Borrower Principal shall keep adequate books and records of account in accordance with methods acceptable to Lender in its reasonable discretion, consistently applied and shall furnish to Lender:

(i) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual certified rent rolls signed and dated by Borrower in the form prepared by Borrower in the ordinary course of the operation of its business and providing at least as much detail as contained in the rent rolls delivered to Lender in connection with the closing of the Loan, within twenty (20) days after the end of each calendar month, forty-five (45) days after the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable;

(ii) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual operating statements of the Property, prepared and certified by Borrower in the form used by Borrower in the ordinary course of its operations, detailing the revenues received, the expenses incurred and the net operating income before and after debt service (principal and interest) and major capital improvements for the period of calculation and containing appropriate year-to-date information, within twenty (20) days after the end of each calendar month, forty-five (45) days after the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable; and

(iii) annually, with respect to MHC, financial statements (on a consolidated basis with MHCOP) prepared and audited by an Acceptable Accountant, within ninety (90) days of the close of each fiscal year of MHC and MHCOP, as applicable.

(b) Intentionally deleted.

(c) Borrower shall comply with the following:

(i) Intentionally deleted.

(ii) If requested by Lender, Borrower shall provide Lender, promptly upon request, with summaries of the financial statements referenced in Section 5.11(c)(ii)(A)-(D) below if, at the time a Disclosure Document is being prepared for a Securitization, it is expected that the principal amount of the Loan and any Affiliated Loans at the time of Securitization may, or if the principal amount of the Loan and any Affiliated Loans at any time during which the Loan and any Affiliated Loans are included in a Securitization does, equal or exceed 10% of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in a Securitization. Such summaries shall meet the requirements for "summarized financial information," as defined in Section 210.1-02(bb) of Regulation S-X, or such other requirements as may be reasonably determined to be necessary or appropriate by Lender.

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(A) A balance sheet with respect to the Property for the two most recent fiscal years, meeting the requirements of Section 210.3-01 of Regulation S-X of the Securities Act and statements of income and statements of cash flows with respect to the Property for the three most recent fiscal years, meeting the requirements of Section 210.3-02 of Regulation S-X, and, to the extent that such balance sheet is more than 135 days old as of the date of the document in which such financial statements are included, interim financial statements of the Property meeting the requirements of Section 210.3-01 and 210.3-02 of Regulation S-X (all of such financial statements, collectively, the "Standard Statements"); provided, however, that with respect to a Property (other than properties that are hotels, nursing homes, or other properties that would be deemed to constitute a business and not real estate under Regulation S-X or other legal requirements) that has been acquired by Borrower from an unaffiliated third party (such Property, "Acquired Property"), as to which the other conditions set forth in Section 210.3-14 of Regulation S-X for provision of financial statements in accordance with such Section have been met, in lieu of the Standard Statements otherwise required by this section, Borrower shall instead provide the financial statements required by such Section 210.3-14 of Regulation S-X ("Acquired Property Statements").

(B) Not later than 30 days after the end of each fiscal quarter following the date hereof, a balance sheet of the Property as of the end of such fiscal quarter, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for the period commencing following the last day of the most recent fiscal year and ending on the date of such balance sheet and for the corresponding period of the most recent fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(C) Not later than 75 days after the end of each fiscal year following the date hereof, a balance sheet of the Property as of the end of such fiscal year, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for such fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(D) Within ten Business Days after notice from Lender in connection with the Securitization of this Loan, such additional financial statements, such that, as of the date (each an "Offering Document Date") of each Disclosure

Document, Borrower shall have provided Lender with all financial statements as described in subsection (f)(i) above; provided that the fiscal year and interim periods for which such financial statements shall be provided shall be determined as of such Offering Document Date.

(iii) All financial statements provided by Borrower hereunder pursuant to Section 5.11(c)(ii) hereof shall be prepared in accordance with GAAP, and shall meet the requirements of Regulation S-X and other applicable legal requirements. All financial statements (audited or unaudited) provided by Borrower under this Section 5.11 shall be certified by an authorized officer or administrative member of Borrower, which

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certification shall state that such financial statements meet the requirements set forth in the first sentence of this Section 5.11(c)(iii).

(iv) If requested by Lender, Borrower shall provide Lender, promptly upon request, with any other or additional financial statements, or financial, statistical or operating information, as Lender shall determine to be required pursuant to Regulation S-X or any amendment, modification or replacement thereto or other legal requirements in connection with any Disclosure Document or any filing under or pursuant to the Exchange Act in connection with or relating to a Securitization (hereinafter an "Exchange Act Filing") or as shall otherwise be reasonably requested by Lender.

(v) In the event Lender determines, in connection with a Securitization, that the financial statements required in order to comply with Regulation S-X or other legal requirements are other than as provided herein, then notwithstanding the provisions of Section 5.11(c) hereof, Lender may request, and Borrower shall promptly provide, such combination of Acquired Property Statement and/or Standard Statements or such other financial statements as Lender determines to be necessary or appropriate for such compliance.

(vi) Any reports, statements or other information required to be delivered under this Agreement shall be delivered in paper form and in the event that Lender requires financial statements in connection with subsection (c) above because the Loan when combined with the principal amount of any Affiliated Loans equal or exceed 20% of the aggregate principal amount of all mortgage loans included in a Securitization (defined below), Borrower shall deliver such reports, statements and other information (A) on a diskette, and (B) if requested by Lender and within the capabilities of Borrower's data systems without change or modification thereto, in electronic form and prepared using Microsoft Word for Windows or WordPerfect for Windows files (which files may be prepared using a spreadsheet program and saved as word processing files).

(d) Borrower and Borrower Principal shall furnish Lender with such other additional financial or management information (including state and federal tax returns) as may, from time to time, be reasonably required by Lender in form and substance satisfactory to Lender (including, without limitation, any financial reports required to be delivered by any Tenant or any guarantor of any Lease pursuant to the terms of such Lease), and shall furnish to Lender and its agents convenient facilities for the examination and audit of any such books and records.

(e) All items requiring the certification of Borrower shall, except where Borrower is an individual, require a certificate executed by the general partner, managing member or authorized/senior officer of Borrower, as applicable (and the same rules shall apply to any sole shareholder, general partner or managing member which is not an individual).

(f) Notwithstanding anything to the contrary contained herein, in no event shall Borrower be required to comply with the financial reporting requirements of Regulation S-X that would be applicable solely as a result of the principal amount of the Loan and any Affiliated Loans (at the time of Securitization) equaling or exceeding 20% of the aggregate principal

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amount of all mortgage loans included or expected to be included, as applicable, in a Securitization.

#### SECTION 5.12. ESTOPPEL STATEMENT

(a) After request by Lender, Borrower shall within fifteen (15) Business Days furnish Lender with a statement, duly acknowledged and certified, setting forth (i) the amount of the original principal amount of the Note, (ii) the rate of interest on the Note, (iii) the unpaid principal amount of the Note, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) that the Note, this Agreement, the Mortgage and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.

(b) Borrower shall use its reasonable efforts to deliver to Lender, promptly upon request, but subject to the terms of the applicable Major Leases that are either Ground Leases or Operating Leases, duly executed estoppel certificates from any one or more Tenants thereunder as required by Lender (but no more frequently than once every twelve (12) months provided no Event of Default has occurred and is continuing) attesting to such facts regarding the related Lease as Lender may reasonably require, including, but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, except as security, and that the Tenant claims no defense or offset against the full and timely performance of its obligations under the Lease.

#### SECTION 5.13. LEASING MATTERS.

(a) Except as otherwise consented to by Lender in writing, all Leases shall be written on the standard form of lease which shall have been (i) with respect to pad Leases, delivered to Lender in connection with the closing of the Loan and (ii) with respect to Operating Leases or Ground Leases, if any, approved by Lender, provided however that Lender acknowledges that to the extent any portion of the Property consists of a recreational vehicle resort, Borrower shall not be required to enter into written Leases with any occupant or tenant of such portion of the Property and such tenants and/or occupants of such recreational vehicle resorts shall be deemed month to month tenants or licensees of Borrower. So long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Borrower may modify its standard form of pad lease in accordance with sound business practices and Legal Requirements, provided that the form of such Lease contains covenants and conditions that are consistent with those contained in comparable leases in the applicable local market. Notwithstanding the foregoing, in the event that the majority of owners, managers and/or operators of comparable recreational vehicle resorts in the applicable local market enter into written Leases with the occupants of recreational vehicle resorts, Borrower shall be required to enter into written Leases with respect to such occupants, and the form of such lease shall contain terms and conditions that are consistent with those of Leases of comparable properties in the applicable market or sub-market. Upon request, Borrower (1) shall furnish Lender with executed copies of all Major Leases and (2) shall make available to Lender at Borrower's offices (upon reasonable notice to Borrower), executed copies of all other Leases. No material changes may be made to the Lender-approved standard form of Operating Lease and Ground Lease, if applicable, without the prior written

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consent of Lender. In addition, all renewals of Leases and all proposed leases shall provide for rental rates and terms comparable to existing local market rates and terms and, except with respect to one pad at the Property used for on-site community managers (or other employees of Manager), shall be arm's-length transactions with bona fide, independent third party tenants. All proposed Major Leases and renewals of existing Major Leases shall be subject to the prior approval of Lender and its counsel, at Borrower's expense. All Leases shall provide that they are subordinate to the Mortgage and that the tenant agrees to attorn to Lender.

(b) Borrower (i) shall observe and perform all the obligations imposed upon the landlord under the Leases and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (ii) shall enforce all of the material terms, covenants and conditions contained in the Leases upon the part of the Tenant thereunder to be observed or performed, short of termination thereof; provided however, with respect to pad leases, a pad Lease may be terminated in the event of a default by the tenant thereunder; (iii) with respect to any Leases (other than Leases relating to mobile home park pads or recreational vehicle resort pads), shall not collect any of the Rents more than one (1) month in advance; provided, however, that in no event shall Borrower collect any Rents under Leases (or any other applicable occupancy agreements (written or otherwise)) relating to mobile home park pads or recreational vehicle resort pads more than one (1) year in advance; (iv) shall not execute any other assignment of the landlord's interest in the Leases or the Rents; and (v) shall not consent to any assignment of or subletting under the Major Leases not in accordance with their terms, without the prior written consent of Lender.

(c) Notwithstanding the provisions of subsection (a) above, renewals of existing commercial Leases and proposed Leases for commercial space shall not be subject to the prior approval of Lender, provided all of the following conditions are satisfied: (i) the rental income pursuant to the renewal or proposed Lease is not more than five (5%) percent of the total rental income for the Property, (ii) the renewal or proposed Lease has a base term of less than six (6) years including options to renew, (iii) no rent, credits, free rents or concessions have been granted under the renewal or proposed Lease (except to the extent consistent with current market conditions), (iv) the renewal or proposed Lease is subject and subordinate to the Mortgage and the tenant thereunder shall have agreed to attorn to Lender, (v) the renewal or proposed Lease is on the standard form of lease approved by Lender, (vi) the renewal or proposed Lease does not contain any option, offer, right of first refusal, or other similar right to acquire all or any portion of the Property, and (vii) the renewal or proposed Lease provides for rental rates and terms comparable to existing market rates and terms and is an arm's-length transaction with a bona fide, independent third party tenant. Borrower shall deliver to Lender copies of all Leases which are entered into pursuant to the preceding sentence together with Borrower's certification that it has satisfied all of the conditions of the preceding sentence within thirty (30) days after the execution of the Lease.

#### SECTION 5.14. PROPERTY MANAGEMENT

(a) Borrower shall (i) promptly perform and observe all of the covenants required to be performed and observed by it under the Management Agreement and do all things necessary to preserve and to keep unimpaired its material rights thereunder; (ii) promptly notify Lender of any material default under the Management Agreement of which it is aware; (iii) promptly

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deliver to Lender a copy of any notice of default or other material notice received by Borrower under the Management Agreement; (iv) promptly give notice to Lender of any notice or information that Borrower receives which indicates that Manager is terminating the Management Agreement or that Manager is otherwise discontinuing its management of the Property; and (v) promptly enforce the performance and observance of all of the covenants required to be performed and observed by Manager under the Management Agreement.

(b) If at any time, (i) an Event of Default under Section 11.1(a) hereof has occurred and is continuing; or (ii) Manager is not an Affiliated Manager and either (A) a default has occurred and is continuing under the Management Agreement or (B) Manager has become insolvent or a debtor in a bankruptcy proceeding, Borrower shall, at the request of Lender, terminate the Management Agreement upon thirty (30) days prior notice to Manager and replace Manager with a Qualified Manager approved by Lender on terms and conditions satisfactory to Lender, it being understood and agreed that the management fee for such replacement manager shall not exceed then prevailing market rates.

(c) Intentionally deleted.

(d) Any entity Controlled by MHC or MHCOP shall be deemed Qualified Manager. Borrower shall not, without the prior written consent of Lender (which consent shall not be unreasonably withheld, conditioned or delayed): (i) surrender, terminate or cancel the Management Agreement or otherwise replace Manager or enter into any other management agreement with respect to the Property; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; or (iv) otherwise modify, change, supplement, alter or amend, or waive or release any of its rights and remedies under, the Management Agreement in any material respect, provided, however, that if Manager is Controlled by MHC or MHCOP, then Borrower shall have the right to enter into amendments to the Management Agreement (1) which are consistent with good operating practices, (2) which do not increase any of the fees or other similar charges payable by Borrower thereunder and (3) which do not otherwise materially increase any of Borrower's obligations thereunder, and Borrower shall have the right to enter into a new management agreement with another entity Controlled by MHC or MHCOP on substantially the same terms and conditions as those set forth in the Management Agreement approved by Lender in connection with the closing of the Loan and otherwise in accordance with the terms permitted hereunder, without the consent of Lender. In the event that Borrower replaces Manager at any time during the term of Loan pursuant to this subsection, such Manager shall be a Qualified Manager.

#### SECTION 5.15. LIENS

Borrower shall not, without the prior written consent of Lender, create, incur, assume or suffer to exist any Lien on any portion of the Property or permit any such action to be taken, except Permitted Encumbrances.

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#### SECTION 5.16. DEBT CANCELLATION

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

#### SECTION 5.17. ZONING

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

#### SECTION 5.18. ERISA

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



(b) Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan, as requested by Lender in its sole discretion, that (i) Borrower is not and does not maintain an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(3) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) 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);

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

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

#### SECTION 5.19. NO JOINT ASSESSMENT

Borrower shall not suffer, permit or initiate the joint assessment of the Property with (a) any other real property constituting a tax lot separate from the Property, or (b) any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the Lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to the Property.

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#### SECTION 5.20. RECIPROCAL EASEMENT AGREEMENTS

Borrower shall not enter into, terminate or modify (in any material respects) any REA without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Borrower shall enforce, comply with, and cause each of the parties to the REA to comply with all of the material economic terms and conditions contained in the REA. Lender acknowledges that it would be unreasonable to withhold its consent to Borrower entering into an REA with an Affiliate owning property adjacent to the Property with respect to the use of certain amenities and facilities at the Property, provided that (A) any such REA would not (i) have a material adverse affect on the Property or the Borrower, (ii) impose any material obligations on the Borrower, (B) the terms of any such REA provide that Borrower shall be paid fair market value for the use of such amenities and/or facilities under any such REA and (C) sufficient utilities, facilities and other amenities shall continue to be available to and serve the Property.

#### SECTION 5.21. ALTERATIONS

Lender's prior approval shall be required in connection with any alterations to any Improvements, exclusive of alterations to tenant spaces required under any Lease, (a) that may have a material adverse effect on the Property or (b) that, together with any other alterations undertaken at the same time (including any related alterations, improvements or replacements), are reasonably anticipated to have a cost in excess of the Alteration Threshold. Notwithstanding the provisions of subsection (b) above and provided that either the Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Lender's prior approval shall not be required in connection with any alterations in excess of the Alteration Threshold, provided that Lender shall have received (a) a current Appraisal of the Property (or a letter update to the Appraisal delivered in connection with the closing of the Loan), (b) a certificate from Borrower and (c) such other evidence that would be satisfactory to a prudent institutional mortgage loan lender each indicating that such

alterations will not impair (as security for the Loan) the fair market value of the real estate collateral portion of the Property, as determined by a prudent institutional secondary market lender. If the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements shall at any time exceed the Alteration Threshold and regardless of whether Lender's consent is required in connection with any such alterations, Borrower shall promptly deliver to Lender as security for the payment of such amounts and as additional security for Borrower's obligations under the Loan Documents any of the following: (i) cash, (ii) direct non-callable obligations of the United States of America or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, to the extent acceptable to the applicable Rating Agencies, (iii) other securities acceptable to Lender and the Rating Agencies, or (iv) a completion bond, provided that such completion bond is acceptable to the Lender and the Rating Agencies. Such security shall be in an amount equal to the excess of the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements over the Alteration Threshold.

#### SECTION 5.22. TAX CREDITS

Borrower shall not claim a low income housing credit for the Property under Section 42 of the Internal Revenue Code without Lender's prior written consent.

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#### SECTION 5.23. INTENTIONALLY DELETED.

### ARTICLE 6 ENTITY COVENANTS

#### SECTION 6.1. SINGLE PURPOSE ENTITY/SEPARATENESS

Until the Debt has been paid in full, Borrower represents, warrants and covenants as follows:

(a) Borrower has not and will not:

(i) engage in any business or activity other than the ownership, operation and maintenance of the Property, and activities incidental thereto;

(ii) acquire or own any assets other than (A) the Property, and (B) such incidental Personal Property as may be necessary for the operation of the Property;

(iii) merge into or consolidate with any Person, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;

(iv) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the applicable Legal Requirements of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;

(v) own any subsidiary, or make any investment in, any Person;

(vi) commingle its assets with the assets of any other Person;

(vii) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Debt, (B) trade and operational indebtedness incurred in the ordinary

course of business with trade creditors, provided such indebtedness is (1) unsecured, (2) not evidenced by a note, (3) on commercially reasonable terms and conditions, and (4) due not more than sixty (60) days past the date incurred and paid on or prior to such date, and/or (C) financing leases and purchase money indebtedness incurred in the ordinary course of business relating to Personal Property on commercially reasonable terms and conditions; provided however, the aggregate amount of the indebtedness described in (B) and (C) shall not exceed at any time three percent (3%) of the outstanding principal amount of the Note;

(viii) fail to 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; except that Borrower's financial position, assets, liabilities, net worth and operating results may be included in the consolidated financial statements of

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an Affiliate, provided that such consolidated financial statements indicate that Borrower is a separate legal entity and that it maintains separate books and records;

(ix) enter into any contract or agreement with any general partner, member, shareholder, principal, guarantor of the obligations of Borrower, or any Affiliate of the foregoing, except upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(x) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xi) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts 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;

(xii) make any loans or advances to any Person;

(xiii) fail to file its own tax returns or files a consolidated federal income tax return with any Person (unless prohibited or required, as the case may be, by applicable Legal Requirements);

(xiv) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(xv) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, provided, however, that any such failure to maintain adequate capital will not constitute a breach of this covenant if cash flow from the Property is insufficient for Borrower to maintain adequate capital as set forth above;;

(xvi) if it is a partnership or limited liability company, without the unanimous written consent of all of its partners or members, as applicable, and the written consent of 100% of the managers of Borrower (if any), including, without limitation, each Independent Director, (a) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Creditors Rights

Laws, (b) seek or consent to the appointment of a receiver, liquidator or any similar official, (c) take any action that might cause such entity to become insolvent, or (d) make an assignment for the benefit of creditors;

(xvii) fail to allocate shared expenses (including, without limitation, shared office space and services performed by an employee of an Affiliate) among the Persons sharing such expenses and to use separate stationery, invoices and checks;

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(xviii) make any distributions so as to render Borrower insolvent or cause Borrower to become unable to pay its own liabilities (including, without limitation, the salaries of its own employees, if any) from its own funds;

(xix) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable; or

(xx) violate or cause to be violated the assumptions made with respect to Borrower and its principals in any opinion letter pertaining to substantive consolidation delivered to Lender in connection with the Loan; or

(xxi) If Borrower is a partnership or limited liability company, each general partner in the case of a general partnership, each general partner in the case of a limited partnership, or the managing member in the case of a limited liability company (each an "SPE COMPONENT ENTITY") of Borrower, as applicable, shall be a corporation or a single member Delaware limited liability company whose sole asset is its interest in Borrower. Each SPE Component Entity (i) will at all times comply with each of the covenants, terms and provisions contained in Section 6.1(a)(iii) - (vi) and (viii) - (xxi), as if such representation, warranty or covenant was made directly by such SPE Component Entity; (ii) will not engage in any business or activity other than owning an interest in Borrower; (iii) will not acquire or own any assets other than its partnership, membership, or other equity interest in Borrower; (iv) will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation); (v) will at all times when the Loan is outstanding own at least a one hundredth of one percent (.01%) general partnership or managing membership interest in Borrower; and (vi) will cause Borrower to comply with the provisions of this Section 6.1 and Section 6.4. Prior to the withdrawal or the disassociation of any SPE Component Entity from Borrower, Borrower shall immediately appoint a new general partner or managing member whose articles of incorporation or limited liability company operating agreement, as applicable, are substantially similar to those of such SPE Component Entity and, if an opinion letter pertaining to substantive consolidation was required at closing, deliver a new opinion letter acceptable to Lender and the Rating Agencies with respect to the new SPE Component Entity and its equity owners. Notwithstanding the foregoing, to the extent Borrower is a single member Delaware limited liability company, so long as Borrower maintains such formation status, no SPE Component Entity shall be required.

(b) In the event Borrower is a single member Delaware limited liability company, the limited liability company agreement of Borrower (the "LLC AGREEMENT") shall provide that (i) upon the occurrence of any event that causes the sole member of Borrower ("MEMBER") to cease to be the member of Borrower (other than (A) upon an assignment by Member of all of its limited liability company interest in Borrower and the admission of the transferee in accordance with the Loan Documents and the LLC Agreement, or (B) the resignation of Member and the admission of an additional member of Borrower in accordance with the terms of the Loan Documents and the LLC Agreement), any person acting as Independent Director of Borrower shall, without any action of any other Person

and simultaneously with the Member ceasing to be the member of Borrower, automatically be admitted to Borrower ("SPECIAL MEMBER") and shall continue Borrower without dissolution and (ii) Special Member may not resign from Borrower

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or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to Borrower as Special Member in accordance with requirements of Delaware law and (B) such successor Special Member has also accepted its appointment as an Independent Director. The LLC Agreement shall further provide that (i) Special Member shall automatically cease to be a member of Borrower upon the admission to Borrower of a substitute Member, (ii) Special Member shall be a member of Borrower that has no interest in the profits, losses and capital of Borrower and has no right to receive any distributions of Borrower assets, (iii) pursuant to Section 18-301 of the Delaware Limited Liability Company Act (the "ACT"), Special Member shall not be required to make any capital contributions to Borrower and shall not receive a limited liability company interest in Borrower, (iv) Special Member, in its capacity as Special Member, may not bind Borrower and (v) except as required by any mandatory provision of the Act, Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, Borrower, including, without limitation, the merger, consolidation or conversion of Borrower; provided, however, such prohibition shall not limit the obligations of Special Member, in its capacity as Independent Director, to vote on such matters required by the Loan Documents or the LLC Agreement. In order to implement the admission to Borrower of Special Member, Special Member shall execute a counterpart to the LLC Agreement. Prior to its admission to Borrower as Special Member, Special Member shall not be a member of Borrower.

Upon the occurrence of any event that causes the Member to cease to be a member of Borrower, to the fullest extent permitted by law, the personal representative of Member shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of Member in Borrower, agree in writing (i) to continue Borrower and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Borrower, effective as of the occurrence of the event that terminated the continued membership of Member of Borrower in Borrower. Any action initiated by or brought against Member or Special Member under any Creditors Rights Laws shall not cause Member or Special Member to cease to be a member of Borrower and upon the occurrence of such an event, the business of Borrower shall continue without dissolution. The LLC Agreement shall provide that each of Member and Special Member waives any right it might have to agree in writing to dissolve Borrower upon the occurrence of any action initiated by or brought against Member or Special Member under any Creditors Rights Laws, or the occurrence of an event that causes Member or Special Member to cease to be a member of Borrower.

#### SECTION 6.2. CHANGE OF NAME, IDENTITY OR STRUCTURE

Borrower shall not change or permit to be changed (a) Borrower's name, (b) Borrower's identity (including its trade name or names), (c) Borrower's principal place of business set forth on the first page of this Agreement, (d) the corporate, partnership or other organizational structure of Borrower, each SPE Component Entity (if any), or Borrower Principal, (e) Borrower's state of organization, or (f) Borrower's organizational identification number, without in each case notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender. In addition, Borrower shall not change or permit to be changed any organizational documents of Borrower or any SPE Component Entity (if any) if such change would adversely impact the covenants set forth in Section 6.1 and Section

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6.4 hereof. Borrower authorizes Lender to file any financing statement or financing statement amendment required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property. If Borrower does not now have an organizational identification number and later obtains one, or if the organizational identification number assigned to Borrower subsequently changes, Borrower shall promptly notify Lender of such organizational identification number or change.

#### SECTION 6.3. BUSINESS AND OPERATIONS

Borrower will qualify to do business and will remain in good standing under the laws of the State as and to the extent the same are required for the ownership, maintenance, management and operation of the Property.

#### SECTION 6.4. INDEPENDENT DIRECTOR

(a) The organizational documents of Borrower or each SPE Component Entity (if any), as applicable, shall provide that at all times there shall be, and Borrower shall cause there to be, at least one manager (each an "INDEPENDENT DIRECTOR") of Borrower or such SPE Component Entity, as applicable, reasonably satisfactory to Lender each of whom are not at the time of such individual's initial appointment, and shall not have been at any time during the preceding five (5) years, and shall not be at any time while serving as a director of Borrower or such SPE Component Entity, as applicable, either (i) a shareholder (or other equity owner) of, or an officer, director, partner, manager, member (other than as a Special Member in the case of single member Delaware limited liability companies), employee, attorney or counsel of, Borrower, such SPE Component Entity or any of their respective shareholders, partners, members, subsidiaries or affiliates; (ii) a customer or creditor of, or supplier to, Borrower or any of its respective shareholders, partners, members, subsidiaries or affiliates who derives any of its purchases or revenue from its activities with Borrower or such SPE Component Entity or any Affiliate of any of them; (iii) a Person who Controls or is under common Control with any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer; or (iv) a member of the immediate family of any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer.

(b) The organizational documents of Borrower or each SPE Component Entity (if any), as the case may be, shall provide that the manager of Borrower or such SPE Component Entity, as applicable, shall not take any action which, under the terms of any articles of organization or operating agreement, as applicable, requires an unanimous vote of the members and manager of Borrower or such SPE Component Entity, as the case may be, unless at the time of such action there shall be at least one manager who is an Independent Director. Borrower or such SPE Component Entity, as applicable, will not, without the unanimous written consent of its members and managers, including each Independent Director, on behalf of itself or Borrower, (i) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable Creditors Rights Laws; (ii) seek or consent to the appointment of a receiver,

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liquidator or any similar official; (iii) take any action that might cause such entity to become insolvent; or (iv) make an assignment for the benefit of creditors.

### ARTICLE 7 NO SALE OR ENCUMBRANCE

#### SECTION 7.1. TRANSFER DEFINITIONS

For purposes of this Article 7 an "AFFILIATED MANAGER" shall mean any managing agent in which Borrower, Borrower Principal, any SPE Component Entity (if any) or any affiliate of such entities has, directly or indirectly, any legal, beneficial or economic interest; "CONTROL" shall mean the power to direct the management and policies of a Restricted Party, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise; "RESTRICTED PARTY" shall mean Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager, or any shareholder, partner, member or non-member manager, or any direct or indirect legal or beneficial owner of Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager or any non-member manager; and a "SALE OR PLEDGE" shall mean a voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, grant of any options with respect to, or any other transfer or disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest.

#### SECTION 7.2. NO SALE/ENCUMBRANCE

(a) Borrower shall not cause or permit a Sale or Pledge of the Property or any part thereof or any legal or beneficial interest therein nor permit a Sale or Pledge of an interest in any Restricted Party (in each case, a "PROHIBITED TRANSFER"), other than pursuant to Leases to Tenants in accordance with the provisions of Section 5.13, without the prior written consent of Lender.

(b) A Prohibited Transfer shall include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) except to the extent permitted pursuant to Section 7.7 hereof, an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (iii) if a Restricted Party is a corporation, any merger, consolidation or Sale or Pledge of such corporation's stock or the creation or issuance of new stock in one or a series of transactions; (iv) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Sale or Pledge of the partnership interest of any general or limited partner or any profits or proceeds relating to such partnership interests or the creation or issuance of new partnership interests; (v) if a Restricted Party is a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Sale or Pledge of the membership interest of any member or any profits or proceeds relating to such membership interest; or (vi) if a Restricted

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Party is a trust or nominee trust, any merger, consolidation or the Sale or Pledge of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests.

#### SECTION 7.3. PERMITTED TRANSFERS

(a) Notwithstanding the provisions of Section 7.2, the following transfers shall not be deemed to be a Prohibited Transfer: (i) a transfer by devise or descent or by operation of law upon the death of a member, partner or shareholder of a Restricted Party; (ii) the Sale or Pledge, in one or a series of transactions, of not more than forty-nine percent (49%) in the aggregate of the stock, limited partnership interests or non-managing membership interests (as the case may be) in Borrower; provided, however, no such transfers shall result in a change in Control in the Restricted Party or change in control of the Property, and as a condition to each such transfer, Lender shall receive not less than thirty (30) days prior written notice of such proposed transfer or

(iii) the sale, transfer or issuance of stock in MHC provided that MHC is listed on the New York Stock Exchange or such other nationally recognized stock exchange. Notwithstanding the foregoing, any transfer that results in any Person owning in excess of forty-nine percent (49%) of the ownership interest in a Restricted Party shall comply with the requirements of Section 7.4 hereof, provided however, that with respect to transfers provided for in subsection (a)(iii) hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any such transfers.

(b) In addition to the foregoing and supplementing subsection (a) above, Lender's prior written consent shall not be required with respect to (i) direct or indirect transfers of interests in Borrower among MHC, MHCOP and their Affiliates, (ii) transfers of limited partnership interests in MHCOP, provided that MHC or an MHC Subsidiary remains the controlling general partner of MHCOP, (iii) the merger or consolidation of MHC or MHCOP without regard to whether MHC or MHCOP, as applicable, is the surviving entity or (iv) MHC's contribution of ownership interests in MHCOP to a MHC Subsidiary, provided that with respect to the transfers set forth in clauses (i), (ii), (iii) and (iv) above, the Property shall continue to be managed by Manager or a Qualified Manager and Borrower and any SPE Component Entity shall continue to comply with Article 6 hereof. Notwithstanding the requirements set forth in Section 7.4 hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any transfers permitted under this subsection (b)(ii), (iii) and (iv). "MHC SUBSIDIARY" means an entity (A) in which MHC directly owns at least a ninety-five percent (95%) interest and (B) that is under the Control of MHC.

#### SECTION 7.4. LENDER'S RIGHTS

Lender reserves the right to condition the consent to a Prohibited Transfer requested hereunder upon (a) a modification of the terms hereof and an assumption of the Note and the other Loan Documents as so modified by the proposed Prohibited Transfer, (b) receipt of payment of a transfer fee equal to one percent (1%) of the outstanding principal balance of the Loan and all of Lender's expenses incurred in connection with such Prohibited Transfer, (c) receipt of written confirmation from the Rating Agencies that the Prohibited Transfer will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to

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be assigned in connection with a Securitization, (d) the proposed transferee's continued compliance with the covenants set forth in this Agreement (including, without limitation, the covenants in Article 6) and the other Loan Documents, (e) a new manager for the Property and a new management agreement satisfactory to Lender, and (f) the satisfaction of such other conditions and/or legal opinions as Lender shall determine in its sole discretion to be in the interest of Lender. All expenses incurred by Lender shall be payable by Borrower whether or not Lender consents to the Prohibited Transfer. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Prohibited Transfer made without Lender's consent. This provision shall apply to each and every Prohibited Transfer, whether or not Lender has consented to any previous Prohibited Transfer. Notwithstanding anything to the contrary contained in this Section 7.4, in the event a substantive non-consolidation opinion was delivered to Lender and the Rating Agencies in connection with the closing of the Loan, and if any Sale or Pledge permitted under this Article 7 results in any Person and its Affiliates owning in excess of forty-nine percent (49%) of the ownership interests in a Restricted Party, Borrower shall, prior to such transfer, and in addition to any other requirement for Lender consent contained herein, deliver a revised substantive non-consolidation opinion to Lender reflecting such Prohibited Transfer, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

#### SECTION 7.5. ASSUMPTION



Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer of the Property in its entirety to, and the related assumption of the Loan by, any Person (a "TRANSFeree") and Lender shall release Borrower and Borrower Principal from their obligations under the Loan (to the extent such obligations arise from events occurring after the date of the assumption), provided that each of the following terms and conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer not less than sixty (60) days before the date on which such transfer is scheduled to close and, concurrently therewith, all such information concerning the proposed Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000 (which fee shall be credited against the assumption fee payable in connection with such assumption). Lender shall have the right to approve or disapprove the proposed transfer based on its then current underwriting and credit requirements for similar loans secured by similar properties which loans are sold in the secondary market, such approval not to be unreasonably withheld. In determining whether to give or withhold its approval of the proposed transfer, Lender shall consider the experience and track record of Transferee and its principals in owning and operating facilities similar to the Property, the financial strength of Transferee and its principals, the general business standing of Transferee and its principals and Transferee's and its principals' relationships and experience with contractors, vendors, tenants, lenders and other business entities; provided, however, that, notwithstanding Lender's agreement to consider the foregoing factors in determining whether to give or withhold such approval, such approval shall be given or withheld based on what Lender

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determines to be commercially reasonable and, if given, may be given subject to such conditions as Lender may deem reasonably appropriate;

(c) Borrower shall have paid to Lender, concurrently with the closing of such transfer, (i) a non-refundable assumption fee in an amount equal to one percent (1.0%) of the then outstanding principal balance of the Note (subject to credit for any previously paid non-refundable processing fees), and (ii) all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer;

(d) Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer, Transferee and its constituent partners, members or shareholders as Lender may require, shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate said assumption;

(e) Borrower and Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Property, as applicable, is vested in Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(g) Transferee shall have furnished to Lender, if Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Transferee's organization and good standing, and

the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Transferee and of the entities, if any, which are partners or members of Transferee. Transferee and such constituent partners, members or shareholders of Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(h) Transferee shall assume the obligations of Borrower under any Management Agreement or provide a new management agreement with a new manager which meets with the requirements of Section 5.14 hereof and assign to Lender as additional security such new management agreement;

(i) Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Transferee's formation documents provide for the matters described in subparagraph (g) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Transferee in accordance with their terms, (C) that Transferee and any entity which is a controlling stockholder, member

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or general partner of Transferee, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

(j) if required by Lender, Lender shall have received confirmation in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(k) Borrower's obligations under the contract of sale pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.5; and

(l) in the event a substantive non-consolidation opinion was delivered to Lender in connection with the closing of the Loan, Transferee shall, prior to such transfer, deliver a new or updated substantive non-consolidation opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

A consent by Lender with respect to a transfer of the Property in its entirety to, and the related assumption of the Loan by, a Transferee pursuant to this Section 7.5 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the Property. Notwithstanding anything to the contrary contained in this Section 7.5, prior to a Securitization Lender's consent to any transfer of the Property and assumption of the Loan pursuant to this Section 7.5 shall not be required if the consideration to be paid to Borrower by the proposed Transferee is less than the appraised value of the Property as determined by Lender.

SECTION 7.6. INTENTIONALLY DELETED.

SECTION 7.7. ASSUMPTIONS IN CONNECTION WITH CERTAIN TRANSFERS TO AFFILIATES.

Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer (by deed or ground lease for nominal consideration), of a portion of the Property (the "AFFILIATE TRANSFER PORTION OF THE PROPERTY") to, and the related assumption of the Loan by, an Affiliate of Borrower (i) in which Borrower Principal owns, directly or indirectly, at least a 70% ownership interest or (ii) in which MHCOP owns, directly or indirectly, at least a 99% ownership interest (an "AFFILIATE TRANSFEREE") such Affiliate Transferee to be a co-obligor and co-mortgagee under the Loan and jointly and severally obligated thereunder, provided that, among other things, each of the following conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer and assumption not less than sixty (60) days before the date on which such transfer and assumption is scheduled to close and, concurrently therewith, all such information concerning the proposed Affiliate Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000;

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(c) Borrower shall have paid to Lender all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer and assumption;

(d) Affiliate Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer and assumption, Affiliate Transferee shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate such transfer and assumption;

(e) Borrower and Affiliate Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new and/or amended security instruments, financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Affiliate Transferee shall have furnished to Lender, if Affiliate Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Affiliate Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Affiliate Transferee and of the entities, if any, which are partners or members of Affiliate Transferee. Affiliate Transferee and such constituent partners, members or shareholders of Affiliate Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(g) Affiliate Transferee shall (i) assume the obligations of Borrower under any Management Agreement as they relate to the Affiliate Transfer Portion of the Property, provided, however, that in the event the Affiliate Transfer Portion of the Property is operated solely as a sewage treatment and/or water treatment facility and operated solely by Affiliate Transferee (and Manager does not perform any services with respect to the Affiliate Transfer Portion of the Property), Affiliate Transferee shall not be required to assume the obligations of Borrower under the Management Agreement, and (ii) if applicable, execute an assignment to Lender of such Management Agreement as additional security for the Loan;

(h) Affiliate Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Affiliate Transferee's formation documents provide for the matters described in subparagraph (f) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Affiliate Transferee in accordance with their terms, (C) that Affiliate Transferee and any entity which is a controlling stockholder, managing or sole member or general partner of Affiliate Transferee, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

(i) if required by Lender, Lender shall have received confirmation in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a

qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(j) Borrower's obligations under the contract of sale, if any, pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.7;

(k) in the event an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower and Affiliate Transferee shall, prior to such transfer and assumption, deliver a new or updated Insolvency Opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies;

(l) Borrower shall deliver to Lender evidence which would be satisfactory to a prudent lender that (i) the Affiliate Transfer Portion of the Property has been legally split or subdivided from the remainder of the Property; (ii) after giving effect to such transfer, each of the Affiliate Transfer Portion of the Property and the balance of the Property conforms and is in compliance in all material respects with applicable Legal Requirements and constitutes a separate tax lot and (iii) the Affiliate Transfer Portion of the Property is not necessary for the Property to comply with any zoning, building, land use or parking or other Legal Requirements applicable to the Property or for the then current use of the Property, including, without limitation, for access, driveways, parking, utilities or drainage or, to the extent that the Affiliate Transfer Portion of the Property is necessary for any such purposes, a reciprocal easement agreement has been executed and recorded that would allow the owner of the Property to continue to use the Affiliate Transfer Portion of the Property to the extent necessary for such purposes;

(m) Borrower shall deliver to Lender an endorsement to the Title Insurance Policy (i) extending the effective date of the Title Insurance Policy to the effective date of the transfer; (ii) confirming no change in the priority of the Mortgage on the Property (including the Affiliate Transfer Portion of the Property) or in the amount of the insurance or the coverage of the Property under the Title Insurance Policy; and (iii) insuring the rights and benefits under any new or amended reciprocal easement agreement or such other agreement required pursuant to subsection 7.7(1)(iii) hereof that has been executed and recorded, if any. Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Affiliate Transfer Portion of the Property, as applicable, is vested in Affiliate Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(n) not less than three (3) Business Days prior to the date of the transfer and assumption, Borrower delivers to Lender approvals to the transfer executed by any entities other than Lender holding Liens encumbering the Property or the Affiliate Transfer Portion of the Property (or holding any other interest therein that would be affected by the transfer), if and to the extent such approval is required pursuant to the terms of any of the documents evidencing or securing such Lien or interest;

(o) Borrower and Affiliate Transferee have complied with any requirements applicable to the transfer in any Major Leases, REA's, operating agreements, parking agreements or other similar agreements affecting the Property or the Affiliate Transfer Portion of the Property and the transfer does not violate any of the provisions of such documents in any respect that would result in a termination (or give any other party thereto the right to terminate), extinguishment or other loss of material right of Borrower or in a material increase in Borrower's obligations under such documents and, to the

extent necessary to comply with such documents, the Affiliate Transferee has assumed Borrower's obligations, if any, relating to the Affiliate Transfer Portion of the Property under such documents; and

(p) if a securitization shall have occurred, Borrower shall deliver to Lender one or more opinions of counsel for Borrower and Affiliate Transferee in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that the transfer and assumption by Affiliate Transferee pursuant to this Section 7.7 (1) will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (2) will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost; and

(q) Borrower delivers to Lender any other information, approvals and documents which would be required by a prudent Lender in connection with such transfer and assumption.

A consent by Lender with respect to a transfer of a portion of the Property to, and the related assumption of the Loan by, an Affiliate Transferee pursuant to this Section 7.7 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the Property or assumption of the Loan. Notwithstanding any transfer and assumption to an Affiliate Transferee pursuant to this Section 7.7, the Property and the Affiliate Transfer Portion of the Property shall be deemed a single Property for purposes of this Agreement and the Loan.

#### SECTION 7.8. ADDITIONAL PERMITTED TRANSFERS.

Notwithstanding anything to the contrary contained in this Article 7, Borrower may grant easements, restrictions, covenants, reservations and rights of way with respect to the Property in the ordinary course of business for water and sewer lines, telephone and telegraph lines, electric lines and other utilities or for other similar purposes, provided that such transfers, conveyances or encumbrances (i) shall not impair the utility and operation of the Property or materially adversely affect the value of the Property or adversely affect Borrower's ability to pay the Debt or the Monthly Payment Amount and (ii) shall be in a form that is reasonably acceptable to Lender.

### ARTICLE 8 INSURANCE; CASUALTY; CONDEMNATION; RESTORATION

#### SECTION 8.1. INSURANCE

(a) Borrower shall obtain and maintain, or cause to be maintained, at all times insurance for Borrower and the Property providing at least the following coverages:

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(i) comprehensive "all risk" insurance (excluding terrorism coverage) on the Improvements and the Personal Property, in each case (A) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Agreement shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (B) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (C) providing for no deductible in excess of \$100,000 for all such insurance coverage; and (D) if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses, providing coverage for contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements and containing an "Ordinance or Law Coverage" or "Enforcement" endorsement. In addition, Borrower shall obtain: (y) if any portion of the Improvements is currently or at any time in the future located in a "special flood hazard area" designated by the

Federal Emergency Management Agency, flood hazard insurance in an amount equal to the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended, and providing for no deductible in excess of \$250,000; and (z) earthquake insurance in amounts and in form and substance reasonably satisfactory to Lender in the event the Property is located in an area with a high degree of seismic risk, provided that the insurance pursuant to clauses (y) and (z) hereof shall be on terms consistent with the comprehensive all risk insurance policy required under this subsection (i);

(ii) Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, with such insurance (A) to be on the so-called "occurrence" form with a general aggregate limit of not less than \$2,000,000 and a per occurrence limit of not less than \$1,000,000; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; and (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations; (3) independent contractors; (4) blanket contractual liability; and (5) contractual liability covering the indemnities contained in Article 12 and Article 14 hereof to the extent the same is available;

(iii) loss of rents insurance or business income insurance, as applicable, (A) with loss payable to Lender; (B) covering all risks required to be covered by the insurance provided for in subsection (i) above; and (C) which provides that after the physical loss to the Improvements and Personal Property occurs, the loss of rents or income, as applicable, will be insured until completion of Restoration or the expiration of twelve (12) months, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period; and (D) which contains an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such loss of rents or business

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income insurance, as applicable, shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross income from the Property for the succeeding period of coverage required above. All proceeds payable to Lender pursuant to this subsection shall be held by Lender and shall be applied to the obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured by the Loan Documents on the respective dates of payment provided for in the Note, this Agreement and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such loss of rents or business income insurance, as applicable;

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

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

(v) workers' compensation, subject to the statutory limits of the State, and employer's liability insurance in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable);

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

(vii) excess liability insurance in an amount not less than \$50,000,000 per occurrence on terms consistent with the commercial general liability insurance required under subsection (ii) above; and

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

(b) All insurance provided for in Section 8.1(a) shall be obtained under valid and enforceable policies (collectively, the "POLICIES" or in the singular, the "POLICY"), and shall be subject to the approval of Lender as to insurance companies, amounts, deductibles, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the State and having a claims paying ability rating of either (1) "AA" or better by at least two Rating Agencies, one of which must be S&P or such other Rating Agencies approved by Lender or (2) at least A-/VII by A.M. Best Company, Inc. The Policies described in Section 8.1(a) shall designate Lender and its successors and assigns as additional insureds, mortgagees and/or loss payee as deemed appropriate by Lender. To the

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extent such Policies are not available as of the Closing Date, Borrower shall deliver certified copies of all Policies to Lender not later than thirty (30) days after the Closing Date. Not less than ten (10) days prior to the expiration dates of the Policies theretofore furnished to Lender, Borrower shall deliver to Lender certificates evidencing renewal of the Policies (such certificates, the "INSURANCE CERTIFICATES") accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "INSURANCE PREMIUMS") and within sixty (60) days after the expiration date of such Policies, Borrower shall deliver to Lender renewal Policies

(c) Any blanket insurance Policy shall specifically allocate to the Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Section 8.1(a).

(d) All Policies provided for or contemplated by Section 8.1(a), except for the Policy referenced in Section 8.1(a)(v), shall name Borrower as the insured, as its interests may appear, and in the case of property damage, boiler and machinery, flood and earthquake insurance, shall contain a so-called New York standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies provided for in Section 8.1(a) shall contain clauses or endorsements to the effect that:

(i) no act or negligence of Borrower, or anyone acting for Borrower, or of any Tenant or other occupant, or failure to comply

with the provisions of any Policy, which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Lender is concerned;

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

(iii) the issuers thereof shall give written notice to Lender if the Policies have not been renewed thirty (30) days prior to its expiration; and

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

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

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#### SECTION 8.2. CASUALTY

If the Property shall be damaged or destroyed, in whole or in part in any material respect, by fire or other casualty (a "CASUALTY"), Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the Restoration of the Property in accordance with Section 8.4, whether or not Lender makes any Net Proceeds available pursuant to Section 8.4. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower. Borrower shall adjust all claims for Insurance Proceeds in consultation with, and approval of, Lender; provided, however, if an Event of Default has occurred and is continuing, Lender shall have the exclusive right to participate in the adjustment of all claims for Insurance Proceeds.

#### SECTION 8.3. CONDEMNATION

Borrower shall promptly give Lender notice of the actual or threatened commencement of any proceeding for the Condemnation of the Property of which Borrower has knowledge and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender may participate in any such proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Notwithstanding any taking by any public or quasi-public authority through Condemnation or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Agreement and the Debt shall not be reduced until any Award shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided herein or in the Note. If the Property or any portion thereof is taken by a condemning authority, Borrower shall promptly commence and diligently prosecute the Restoration of the Property and otherwise comply with the provisions of Section 8.4, whether or not



Lender makes any Net Proceeds available pursuant to Section 8.4. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the Award, or a portion thereof sufficient to pay the Debt.

#### SECTION 8.4. RESTORATION

The following provisions shall apply in connection with the Restoration of the Property:

(a) If the Net Proceeds shall be less than \$250,000 and the costs of completing the Restoration shall be less than \$250,000, the Net Proceeds will be disbursed by Lender to Borrower upon receipt, provided that all of the conditions set forth in Section 8.4(b)(i) are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to

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satisfactorily complete with due diligence the Restoration in accordance with the terms of this Agreement.

(b) If the Net Proceeds are equal to or greater than \$250,000 or the costs of completing the Restoration are equal to or greater than \$250,000, Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Section 8.4. The term "NET PROCEEDS" for purposes of this Section 8.4 shall mean: (i) the net amount of all insurance proceeds received by Lender pursuant to Section 8.1(a)(i), (iv), (vi) and (viii) as a result of a Casualty, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("INSURANCE PROCEEDS"), or (ii) the net amount of the Award as a result of a Condemnation, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("CONDEMNATION PROCEEDS"), whichever the case may be.

(i) The Net Proceeds shall be made available to Borrower for Restoration provided that each of the following conditions are met:

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

(B) (1) in the event the Net Proceeds are Insurance Proceeds, less than twenty-five percent (25%) of the mobile home and/or recreational vehicle pads, as applicable, on the Property shall be rendered unusable for a period in excess of twelve (12) months as a result of a Casualty or (2) in the event the Net Proceeds are Condemnation Proceeds, less than fifteen percent (15%) of the rentable area of the Property and fifteen percent (15%) of the fair market value of the Land constituting the Property is taken, such land is located along the perimeter or periphery of the Property, and no portion of the permanent Improvements is located on such land;

(C) intentionally deleted;

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

(E) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note, which will be incurred with respect to the Property as a result of the occurrence of any such Casualty or Condemnation, whichever the case may be, will be

covered out of the insurance coverage referred to in Section 8.1(a)(iii) above;

(F) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) six (6) months prior to the Maturity Date, (2) the earliest date required for such completion under the terms of any Major Leases, Ground Leases, if applicable, Operating Leases, if applicable, or material agreements affecting the Property, (3) such time as may be required under

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applicable zoning law, ordinance, rule or regulation, or (4) the expiration of the insurance coverage referred to in Section 8.1(a)(iii);

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

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

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

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

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

(ii) The Net Proceeds shall be held by Lender until disbursements commence, and, until disbursed in accordance with the provisions of this Section 8.4, shall constitute additional security for the Debt and other obligations under the Loan Documents. The Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower on a monthly basis during the course of the Restoration in accordance with customary construction lending practices, upon receipt of evidence satisfactory to Lender that (A) all the conditions precedent to such advance, including those set forth in Section 8.4(b)(i), have been satisfied, (B) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the related Restoration item have been paid for in full, and (C) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property which have not either been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policy. Notwithstanding the foregoing, Insurance Proceeds from the Policies required to be maintained by Borrower pursuant to Section 8.1(a)(iii) shall be controlled by Lender at all times, shall not be subject to the provisions of this Section 8.4 and shall be used for the payment of all of the obligations due and payable under the Loan Documents for the entire time period for which any such Insurance Proceeds relate. After such application of the Insurance Proceeds, the remaining balance, if any, of any such proceeds shall be disbursed and/or applied as follows: (A) provided no Event of

Default has occurred and is continuing, to Borrower and (B) upon the occurrence and during the continuance of an Event of Default, to Operating Expenses.

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(iii) All plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender and to the extent the Restoration relates to any permanent Improvements on the Property, by an independent consulting engineer selected by Lender (the "Restoration Consultant"). Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. To the extent the Restoration relates to any permanent Improvements on the Property, the identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts in excess of \$100,000 under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Restoration Consultant. All costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration, including, without limitation, reasonable counsel fees and disbursements and the Restoration Consultant's fees, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Restoration Consultant, minus the Restoration Retainage. The term "Restoration Retainage" shall mean an amount equal to ten percent (10%) of the costs actually incurred for work in place as part of the Restoration, as certified by the Restoration Consultant, until the Restoration has been completed. The Restoration Retainage shall be reduced to five percent (5%) of the costs incurred upon receipt by Lender of satisfactory evidence that fifty percent (50%) of the Restoration has been completed. The Restoration Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Section 8.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Restoration Retainage shall not be released until the Restoration Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b) and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate Governmental Authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Restoration Retainage; provided, however, that Lender will release the portion of the Restoration Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Restoration Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company issuing the Title Insurance Policy, and Lender receives an endorsement to the Title Insurance Policy insuring the continued priority of the lien of the Mortgage and evidence of payment of any premium payable for such endorsement. If required by Lender, the release of any such portion of the Restoration Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

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(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(vi) If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the reasonable opinion of Lender in consultation with the Restoration Consultant, as applicable, be sufficient to pay in full the balance of the costs which are estimated to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "Net Proceeds Deficiency") with Lender before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be held by Lender and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Section 8.4(b) shall constitute additional security for the Debt and other obligations under the Loan Documents.

(vii) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after Borrower and the Restoration Consultant, to the extent applicable, certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b), and the receipt by Lender of evidence satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be remitted by Lender to Borrower, provided no Event of Default shall have occurred and shall be continuing under the Note, this Agreement or any of the other Loan Documents.

(c) All Net Proceeds not required (i) to be made available for the Restoration or (ii) to be returned to Borrower as excess Net Proceeds pursuant to Section 8.4(b) (vii) may (x) be retained and applied by Lender toward the payment of the Debt whether or not then due and payable in such order, priority and proportions as Lender in its sole discretion shall deem proper, or, (y) at the sole discretion of Lender, the same may be paid, either in whole or in part, to Borrower for such purposes and upon such conditions as Lender shall designate.

(d) In the event of foreclosure of the Mortgage, or other transfer of title to the Property in extinguishment in whole or in part of the Debt, all right, title and interest of Borrower in and to the Policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure, Lender or other transferee in the event of such other transfer of title.

## ARTICLE 9 RESERVE FUNDS

### SECTION 9.1. REQUIRED REPAIRS

(a) Borrower shall make the repairs and improvements to the Property set forth on Schedule 2 and as more particularly described in the Physical Conditions Report prepared in connection with the closing of the Loan (such repairs hereinafter referred to as "REQUIRED REPAIRS"). Borrower shall complete the Required Repairs in a good and workmanlike manner on or before the date that is twelve (12) months from the date hereof or within such other time frame for completion specifically set forth on Schedule 2.

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### SECTION 9.2. REPLACEMENTS

(a) On an ongoing basis throughout the term of the Loan, Borrower shall make capital repairs, replacements and improvements necessary to keep the Property in good order and repair and in a good marketable condition or prevent deterioration of the Property ("REPLACEMENTS"). Borrower shall complete all Replacements in a good and workmanlike manner as soon as commercially reasonable

after commencing to make each such Replacement.

(b) Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent to fund the Replacements (the "REPLACEMENT RESERVE ACCOUNT"). In addition, Borrower shall deposit \$4.17 monthly per pad (the "REPLACEMENT RESERVE MONTHLY DEPOSIT") into the Replacement Reserve Account on each Scheduled Payment Date during any Replacement Reserve Period. Amounts so deposited shall hereinafter be referred to as "REPLACEMENT RESERVE FUNDS."

SECTION 9.3. INTENTIONALLY DELETED.

SECTION 9.4. REQUIRED WORK.

Borrower shall diligently pursue all Required Repairs and Replacements (collectively, the "REQUIRED Work") to completion in accordance with the following requirements:

(a) Lender reserves the right, at its option, to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Required Work to the extent such contracts or work orders exceed \$100,000. Upon Lender's request, Borrower shall assign any contract or subcontract to Lender.

(b) In the event Lender determines in its reasonable discretion that any Required Work is not being or has not been performed in a workmanlike or timely manner, upon ten (10) days notice to Borrower and Borrower's failure to commence performance of such Required Work in accordance with this Section 9.4, Lender shall have the option to withhold disbursement for such unsatisfactory Required Work and to proceed under existing contracts or to contract with third parties to complete such Required Work and to apply Replacement Reserve Funds, if any, toward the labor and materials necessary to complete such Required Work, without providing any prior notice to Borrower and to exercise any and all other remedies available to Lender upon an Event of Default hereunder.

(c) In order to facilitate Lender's completion of the Required Work, as permitted in subsection 9.4(b) above, Borrower grants Lender the right to enter onto the Property and perform any and all work and labor necessary to complete the Required Work and/or employ watchmen to protect the Property from damage. All sums so expended by Lender, to the extent not from the Reserve Funds, shall be deemed to have been advanced under the Loan to Borrower and secured by the Mortgage. For this purpose Borrower constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete or undertake the Required Work in the name of Borrower upon Borrower's failure to do so in a workmanlike and timely manner. Such power of attorney shall be deemed to be a power coupled with an interest and cannot be revoked. Borrower empowers said attorney-in-fact as follows: (i) to use any of the

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Reserve Funds for the purpose of making or completing the Required Work; (ii) to make such additions, changes and corrections to the Required Work as shall be reasonably necessary to complete the Required Work; (iii) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes; (iv) to pay, settle or compromise all existing bills and claims which are or may become Liens against the Property, or as may be reasonably necessary for the completion of the Required Work, or for clearance of title; (v) to execute all applications and certificates in the name of Borrower which may be required by any of the contract documents; (vi) to prosecute and defend all actions or proceedings in connection with the Property or the rehabilitation and repair of the Property; and (vii) to do any and every act which Borrower would be required to do on its own behalf to fulfill the terms of this Agreement.

(d) Nothing in this Section 9.4 shall: (i) make Lender responsible for making or completing the Required Work; (ii) require Lender to expend funds in addition to the Reserve Funds to make or complete any Required Work; (iii)

obligate Lender to proceed with the Required Work; or (iv) obligate Lender to demand from Borrower additional sums to make or complete any Required Work.

(e) Borrower shall permit Lender and Lender's agents and representatives (including, without limitation, Lender's engineer, architect, or inspector) or third parties performing Required Work pursuant to this Section 9.4 to enter onto the Property during normal business hours (subject to the rights of tenants under their Leases) to inspect the progress of any Required Work and all materials being used in connection therewith, to examine all plans and shop drawings relating to such Required Work which are or may be kept at the Property, and to complete any Required Work made pursuant to this Section 9.4. Borrower shall cause all contractors and subcontractors to cooperate with Lender and Lender's representatives or such other persons described above in connection with inspections described in this Section 9.4 or the completion of Required Work pursuant to this Section 9.4.

(f) Lender may, to the extent any Required Work would reasonably require an inspection of the Property, inspect the Property at Borrower's expense prior to making a disbursement of the Reserve Funds in order to verify completion of the Required Work for which reimbursement is sought. Borrower shall pay Lender a reasonable inspection fee not exceeding \$500 for each such inspection. Lender may require that such inspection be conducted by an appropriate independent qualified professional selected by Lender and/or may require a copy of a certificate of completion by an independent qualified professional acceptable to Lender prior to the disbursement of the Reserve Funds. Borrower shall pay the expense of the inspection as required hereunder, whether such inspection is conducted by Lender or by an independent qualified professional.

(g) The Required Work and all materials, equipment, fixtures, or any other item comprising a part of any Required Work shall be constructed, installed or completed, as applicable, free and clear of all mechanic's, materialman's or other Liens (except for Permitted Encumbrances).

(h) Before each disbursement of the Reserve Funds, if any, Lender may require Borrower to provide Lender with a search of title to the Property effective to the date of the

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disbursement, which search shows that no mechanic's or materialmen's or other Liens of any nature have been placed against the Property since the date of recordation of the Mortgage and that title to the Property is free and clear of all Liens (except for Permitted Encumbrances).

(i) All Required Work shall comply with all Legal Requirements in all material respects and applicable insurance requirements including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters.

(j) Borrower hereby assigns to Lender all rights and claims Borrower may have against all Persons supplying labor or materials in connection with the Required Work; provided, however, that Lender may not pursue any such rights or claims unless an Event of Default has occurred and remains uncured.

#### SECTION 9.5. RELEASE OF RESERVE FUNDS

(a) Upon written request from Borrower and satisfaction of the requirements set forth in this Agreement, Lender shall disburse to Borrower amounts, if any, from the Replacement Reserve Account to the extent necessary to reimburse Borrower for the actual costs of any approved Replacements. Notwithstanding the preceding sentence, in no event shall Lender be required to (x) disburse funds from any of the Reserve Accounts if an Event of Default exists or (y) disburse funds (if any) from the Replacement Reserve Account to reimburse Borrower for the costs of routine repairs or maintenance to the Property or for costs which are to be reimbursed from funds held in any other Reserve Account.

(b) Each request for disbursement from any of the Reserve Accounts shall be on a form provided or approved by Lender and shall (i) include copies of invoices for all items or materials purchased and all labor or services provided and (ii) specify (A) the Required Work for which the disbursement is requested, (B) the quantity and price of each item purchased, if the Required Work includes the purchase or replacement of specific items, (C) the price of all materials (grouped by type or category) used in any Required Work other than the purchase or replacement of specific items, and (D) the cost of all contracted labor or other services applicable to each Required Work for which such request for disbursement is made. With each request Borrower shall certify that all Required Work has been performed in accordance with all Legal Requirements. Except as provided in Section 9.5(d), each request for disbursement shall be made only after completion of the Replacement (or the portion thereof completed in accordance with Section 9.5(d)) for which disbursement is requested. Borrower shall provide Lender evidence satisfactory to Lender in its reasonable judgment of such completion or performance.

(c) Upon Borrower's request, Lender shall disburse funds from the Replacement Reserve Account to Borrower on a monthly basis, and Borrower shall use such funds to pay all invoices in connection with the Required Work with respect to which a disbursement is requested. In addition, as a condition to any disbursement, Lender may require Borrower to obtain lien waivers from each contractor, supplier, materialman, mechanic or subcontractor who receives payment in an amount equal to or greater than \$10,000 for completion of its work or delivery of its materials. Any lien waiver delivered hereunder shall conform to all Legal Requirements and shall cover all work performed and materials supplied (including equipment

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and fixtures) for the Property by that contractor, supplier, subcontractor, mechanic or materialman through the date covered by the current disbursement request (or, in the event that payment to such contractor, supplier, subcontractor, mechanic or materialmen is to be made by a joint check, the release of lien shall be effective through the date covered by the previous release of funds request).

(d) If (i) the cost of any item of Required Work exceeds \$25,000 and (ii) the contractor performing such Required Work requires periodic payments pursuant to terms of a written contract, a request for disbursement from the Reserve Accounts may be made after completion of a portion of the work under such contract, provided (A) such contract requires payment upon completion of such portion of work, (B) the materials for which the request is made are on site at the Property and are properly secured or have been installed in the Property, (C) all other conditions in this Agreement for disbursement have been satisfied, and (D) in the case of a Replacement, funds remaining in the Replacement Reserve Account are, in Lender's judgment, sufficient to complete such Replacement and other Replacements when required.

(e) Borrower shall not make a request for, nor shall Lender have any obligation to make, any disbursement from any Reserve Account more frequently than once in any calendar month and (except in connection with the final disbursement) in any amount less than the lesser of (i) \$10,000 or (ii) the total cost of the Required Work for which the disbursement is requested.

(f) Intentionally deleted.

(g) Intentionally deleted.

(h) Lender's disbursement of any Reserve Funds or other acknowledgment of completion of any Required Work in a manner satisfactory to Lender shall not be deemed a certification or warranty by Lender to any Person that the Required Work has been completed in accordance with Legal Requirements.

(i) If the funds in any Reserve Account should exceed the amount of payments actually applied by Lender for the purposes of the account, Lender

in its sole discretion shall either return any excess to Borrower or credit such excess against future payments to be made to that Reserve Account. In allocating any such excess, Lender may deal with the Person shown on Lender's records as being the owner of the Property.

(j) The insufficiency of any balance in any of the Reserve Accounts shall not relieve Borrower from its obligation to fulfill all preservation and maintenance covenants in the Loan Documents.

(k) INTENTIONALLY DELETED.

(l) Upon termination of the Replacement Reserve Period or payment in full of the Debt, all amounts remaining on deposit, if any, in the Replacement Reserve Account shall be returned to Borrower or the Person shown on Lender's records as being the owner of the Property and no other party shall have any right or claim thereto.

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#### SECTION 9.6. TAX AND INSURANCE RESERVE FUNDS

Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent sufficient to discharge Borrower's obligations for the payment of Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof (the "TAX AND INSURANCE RESERVE ACCOUNT"). Borrower shall deposit into the Tax and Insurance Reserve Account on each Scheduled Payment Date during any Tax and Insurance Reserve Period (a) one-twelfth of the Taxes that Lender estimates will be payable during the next ensuing twelve (12) months or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Taxes at least thirty (30) days prior to the earlier of (i) the date that the same will become delinquent and (ii) the date that additional charges or interest will accrue due to the non-payment thereof, and (b) except to the extent Lender has waived the insurance escrow because the insurance required hereunder is maintained under a blanket insurance Policy acceptable to Lender in accordance with Section 8.1(c), one-twelfth of the Insurance Premiums that Lender estimates will be payable during the next ensuing twelve (12) months for the renewal of the coverage afforded by the Policies upon the expiration thereof or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Insurance Premiums at least thirty (30) days prior to the expiration of the Policies (said amounts in (a) and (b) above hereinafter called the "TAX AND INSURANCE RESERVE FUNDS"). Lender will apply the Tax and Insurance Reserve Funds to payments of Taxes and Insurance Premiums required to be made by Borrower pursuant to Section 5.4 and Section 8.1 hereof. In making any disbursement from the Tax and Insurance Reserve Account, Lender may do so according to any bill, statement or estimate procured from the appropriate public office or tax lien service (with respect to Taxes) or insurer or agent (with respect to Insurance Premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If the amount of the Tax and Insurance Reserve Funds shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the Tax and Insurance Reserve Account. In allocating any such excess, Lender may deal with the person shown on Lender's records as being the owner of the Property. Any amount remaining in the Tax and Insurance Reserve Account after the Debt has been paid in full shall be returned to Borrower or the person shown on Lender's records as being the owner of the Property and no other party shall have any right or claim thereto. If at any time Lender reasonably determines that the Tax and Insurance Reserve Funds are not or will not be sufficient to pay Taxes and Insurance Premiums by the dates set forth in (a) and (b) above, Lender shall notify Borrower of such determination and Borrower shall pay to Lender any amount necessary to make up the deficiency within ten (10) days after notice from Lender to Borrower requesting payment thereof.

#### SECTION 9.7. EXCESS CASH



Borrower shall establish on the date hereof a sub-account of the Cash Management Account into which Borrower shall deposit all Excess Cash on each Scheduled Payment Date during any Cash Management Period (the "EXCESS CASH RESERVE ACCOUNT"). Amounts so deposited shall hereinafter be referred to as the "EXCESS CASH RESERVE FUNDS." Sums from the Excess Cash Reserve Account shall be disbursed to Borrower's Account upon the discontinuation of a Cash Management Period.

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#### SECTION 9.8. TERRORISM RESERVE.

Upon the occurrence of an Act of Terror (i) Borrower shall establish an Eligible Account with Lender or Lender's agent (the "TERRORISM RESERVE ACCOUNT") and (ii) Borrower Principal shall immediately deposit into the Terrorism Reserve Account an amount equal to the sum of the three (3) Monthly Payment Amounts that would be payable by Borrower for the three (3) Scheduled Payment Dates immediately following the occurrence of such Act of Terror. Amounts so deposited shall hereinafter be referred to as the "TERRORISM RESERVE FUNDS". "ACT OF TERROR" shall mean any foreign acts of terrorism or similar acts of sabotage (excluding acts of war or nuclear, chemical and biological acts) in which the Property is directly affected by such acts. Lender shall apply Terrorism Reserve Funds, if any, to any amounts due hereunder.

#### SECTION 9.9. RESERVE FUNDS GENERALLY

(a) Funds on deposit in the Reserve Accounts shall be held by Lender or any Loan servicer, as applicable, and invested in Permitted Investments as directed by Lender, and interest shall be credited to Borrower. All such interest shall be and become part of the applicable Reserve Accounts and shall be disbursed in accordance with Section 9.5 above, provided, however, that Lender may, at its election, retain any such interest for its own account for application to the Debt in accordance with this Agreement and the other Loan Documents during the occurrence and continuance of an Event of Default. Borrower agrees that it shall include all interest on the applicable Reserve Funds as the income of Borrower (and, if Borrower is a partnership or other pass-through entity, the partners, members or beneficiaries of Borrower, as the case may be), and shall be the owner of the applicable Reserve Funds for federal and applicable state and local tax purposes.

(b) Borrower grants to Lender a first-priority perfected security interest in, and assigns and pledges to Lender, each of the Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts as additional security for payment of the Debt. Until expended or applied in accordance herewith, the Reserve Accounts and the Reserve Funds shall constitute additional security for the Debt. The provisions of this Section 9.9 are intended to give Lender or any subsequent holder of the Loan "control" of the Reserve Accounts within the meaning of the UCC.

(c) The Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts shall be subject to the exclusive dominion and control of Lender, which shall hold the Reserve Accounts and any or all Reserve Funds now or hereafter deposited in the Reserve Accounts subject to the terms and conditions of this Agreement. Borrower shall have no right of withdrawal from the Reserve Accounts or any other right or power with respect to the Reserve Accounts or any or all of the Reserve Funds now or hereafter deposited in the Reserve Accounts, except as expressly provided in this Agreement.

(d) Lender shall furnish or cause to be furnished to Borrower, without charge, an annual accounting of each Reserve Account in the normal format of Lender or its loan servicer, showing credits and debits to such Reserve Account and the purpose for which each debit to each Reserve Account was made.

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(e) As long as no Event of Default has occurred and is continuing, Lender shall make disbursements from the Reserve Accounts in accordance with this Agreement. All such disbursements shall be deemed to have been expressly pre-authorized by Borrower, and shall not be deemed to constitute the exercise by Lender of any remedies against Borrower unless an Event of Default has occurred and is continuing and Lender has expressly stated in writing its intent to proceed to exercise its remedies as a secured party, pledgee or lienholder with respect to the Reserve Accounts.

(f) If any Event of Default occurs, Borrower shall immediately lose all of its rights to receive disbursements from the Reserve Accounts until the earlier to occur of (i) the date on which such Event of Default is cured to Lender's satisfaction, or (ii) the payment in full of the Debt. In addition, at Lender's election, Borrower shall lose all of its rights to receive interest on the Reserve Accounts during the occurrence and continuance of an Event of Default. Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured party, pledgee and lienholder with respect to the Reserve Accounts. Without limitation of the foregoing, during the continuance of any Event of Default, Lender may use and disburse the Reserve Funds (or any portion thereof) for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses, fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents; (D) payment of any item from any of the Reserve Accounts as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Reserve Funds and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Reserve Funds to effect a cure of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

(g) The Reserve Funds shall not constitute escrow or trust funds and may be commingled with other monies held by Lender. Notwithstanding anything else herein to the contrary, Lender may commingle in one or more Eligible Accounts any and all funds controlled by Lender, including, without limitation, funds pledged in favor of Lender by other borrowers, whether for the same purposes as the Reserve Accounts or otherwise. Without limiting any other provisions of this Agreement or any other Loan Document, the Reserve Accounts may be established and held in such name or names as Lender or its loan servicer, as agent for Lender, shall deem appropriate, including, without limitation, in the name of Lender or such loan servicer as agent for Lender. In the case of any Reserve Account which is held in a commingled account, Lender or its loan servicer, as applicable, shall maintain records sufficient to enable it to determine at all times which portion of such account is related to the Loan. The Reserve

Accounts are solely for the protection of Lender. With respect to the Reserve Accounts, Lender shall have no responsibility beyond the allowance of due credit for the sums actually received by Lender or beyond the reimbursement or payment of the costs and expenses for which such accounts were established in accordance with their terms. Upon assignment of the Loan by Lender, any Reserve Funds shall be turned over to the assignee and any responsibility of Lender as assignor

shall terminate. The requirements of this Agreement concerning Reserve Accounts in no way supersede, limit or waive any other rights or obligations of the parties under any of the Loan Documents or under applicable law.

(h) Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in the Reserve Accounts or the Reserve Funds deposited therein or permit any Lien to attach thereto, except for the security interest granted in this Section 9.9, or any levy to be made thereon, or any UCC Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto.

(i) Borrower will maintain the security interest created by this Section 9.9 as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Reserve Accounts and the Reserve Funds against the claims and demands of all Persons whomsoever. At any time and from time to time, upon the written request of Lender, and at the sole expense of Borrower, Borrower will promptly and duly execute and deliver such further instruments and documents and will take such further actions as Lender reasonably may request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted.

ARTICLE 10  
CASH MANAGEMENT

SECTION 10.1. LOCKBOX ACCOUNT AND CASH MANAGEMENT ACCOUNT

(a) Borrower acknowledges and confirms that Borrower has established, and Borrower covenants that it shall maintain, (i) pursuant to the Lockbox Agreement, an Eligible Account into which Borrower shall, and shall cause Manager to, deposit or cause to be deposited, all Rents and other revenue from the Property (such account, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "LOCKBOX ACCOUNT"), and (ii) an Eligible Account with Lender or any Loan servicer, as applicable, into which funds in the Lockbox Account shall be transferred pursuant to the terms of Section 10.2(b) hereof (such account, the sub-accounts thereof, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "CASH MANAGEMENT ACCOUNT").

(b) The Lockbox Account and Cash Management Account shall each be in the name of Borrower for the benefit of Lender, as secured party, provided that Borrower shall be the owner of all funds on deposit in such accounts for federal and applicable state and local tax purposes. Sums on deposit in the Cash Management Account shall not be invested except in such Permitted Investments as determined and directed by Lender and all income earned thereon shall be the income of Borrower and be applied to and become part of the Cash Management Account, to be disbursed in accordance with this Article 10. Neither Lockbox Bank nor Lender

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shall have any liability for any loss resulting from the investment of funds in Permitted Investments in accordance with the terms and conditions of this Agreement.

(c) The Lockbox Account and Cash Management Account shall be subject to the exclusive dominion and control of Lender and, except as otherwise expressly provided herein, neither Borrower, Manager nor any other party claiming on behalf of, or through, Borrower or Manager, shall have any right of withdrawal therefrom or any other right or power with respect thereto.

(d) Borrower agrees to pay the customary fees and expenses of Lockbox Bank (incurred in connection with maintaining the Lockbox Account) and Lender (incurred in connection with maintaining the Cash Management Account) and any successors thereto in connection therewith, as separately agreed by them from time to time.

(e) Lender shall be responsible for the performance only of such duties with respect to the Cash Management Account as are specifically set forth herein, and no duty shall be implied from any provision hereof. Lender shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own monies. Borrower shall indemnify and hold Lender and its directors, employees, officers and agents harmless from and against any loss, cost or damage (including, without limitation, reasonable attorneys' fees and disbursements) incurred by such parties in connection with the Cash Management Account other than such as result from the gross negligence or willful misconduct of Lender or intentional nonperformance by Lender of its obligations under this Agreement.

SECTION 10.2. DEPOSITS AND WITHDRAWALS

(a) Borrower represents, warrants and covenants that:

(i) Concurrently with the execution of this Agreement, Borrower shall notify and advise Manager to deposit directly into the Lockbox Account all payments of Rents or any other item payable under such Leases pursuant to an instruction letter in the form of Exhibit A attached hereto (a "RENT DIRECTION LETTER"). If Borrower fails to provide any such notice (and without prejudice to Lender's rights with respect to such default), Lender shall have the right, and Borrower hereby grants to Lender a power of attorney (which power of attorney shall be coupled with an interest and irrevocable so long as any portion of the Debt remains outstanding), to sign and deliver a Rent Direction Letter;

(ii) Borrower shall, and shall cause Manager to, instruct all Persons that maintain open accounts with Borrower or Manager with respect to the Property or with whom Borrower or Manager does business on an "accounts receivable" basis with respect to the Property to deliver all payments due under such accounts to the Lockbox Account. Neither Borrower nor Manager shall direct any such Person to make payments due under such accounts in any other manner;

(iii) All Rents or other income from the Property shall (A) be deemed additional security for payment of the Debt and shall be held in trust for the benefit, and as the property, of Lender, (B) not be commingled with any other funds or property of

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Borrower or Manager, and (C) if received by Borrower notwithstanding the delivery of a Rent Direction Letter, be deposited in the Lockbox Account within one (1) Business Day of receipt;

(iv) Without the prior written consent of Lender, so long as any portion of the Debt remains outstanding, Borrower shall not terminate, amend, revoke or modify any Rent Direction Letter in any manner whatsoever or direct or cause Manager to pay any amount in any manner other than as provided in the Rent Direction Letter; and

(v) So long as any portion of the Debt remains outstanding, neither Borrower, Manager nor any other Person shall open or maintain any accounts other than the Lockbox Account into which revenues from the ownership and operation of the Property are deposited. The foregoing shall not prohibit Borrower from utilizing one or more separate accounts for the disbursement or retention of funds that have been transferred to Borrower pursuant to the express terms of this Agreement.

(b) Provided no Event of Default has occurred, at all times other than during a Cash Management Period, Lockbox Bank shall, on each Business Day, withdraw all collected and available funds in excess of \$2,500 (funds are not available if, in the reasonable determination of Lockbox Bank, such funds are

subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing their withdrawal) held in the Lockbox Account and disburse such funds to the Borrower Account. Upon the occurrence and during the continuance of a Cash Management Period, Lockbox Bank shall (and Lender shall instruct Lockbox Bank to), on each Business Day, withdraw all collected and available funds (funds are not available if, in the reasonable determination of Lockbox Bank, such funds are subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing their withdrawal) held in the Lockbox Account and transfer by wire transfer or other method of transfer mutually agreeable to Lockbox Bank and Lender to the Cash Management Account to be held until disbursed by Lender pursuant to Section 10.2(c). Provided no Event of Default has occurred and is continuing, upon the earlier to occur of (a) payment in full of the Debt or (b) the discontinuation of a Cash Management Period, Lockbox Bank shall no longer transfer funds in the Lockbox Account to the Cash Management Account in accordance with this subsection (b) and shall transfer funds (if any) in the Lockbox Account to the Borrower Account or, upon payment in full of the Debt, as otherwise directed by Borrower. In the event a Cash Management Period occurs three times during the term of the Loan and if required by the Lockbox Bank, Borrower shall not be entitled to any rights to the withdrawal of funds from the Lockbox Account during the remaining term of the Loan, the Cash Management Period shall continue, and Lender shall continue to have the right to the withdrawal of funds from the Lockbox Account until the Debt is paid in full.

(c) During a Cash Management Period, on each Scheduled Payment Date (and if such day is not a Business Day, then the immediately preceding day which is a Business Day) commencing the month immediately following the month during which the Cash Management Period commences, Borrower hereby irrevocably authorizes Lender to withdraw or allocate to the sub-accounts of the Cash Management Account, as the case may be, amounts received in the Cash Management Account, in each case to the extent that sufficient funds remain therefor and Lender may, at its option, withdraw or allocate such funds as follows:

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(i) during a Tax and Insurance Reserve Period, funds sufficient to pay the monthly deposits to the Tax and Insurance Reserve Account shall be allocated to the Tax and Insurance Reserve Account to be held and disbursed in accordance with Section 9.6;

(ii) funds sufficient to pay the Monthly Payment Amount (or an amount up to the entire amount of the Debt upon an acceleration of the Loan in accordance with the terms hereof), shall be withdrawn and paid to Lender;

(iii) during a Replacement Reserve Period, funds sufficient to pay the Replacement Reserve Monthly Deposit shall be allocated to the Replacement Reserve Account to be held and disbursed in accordance with Section 9.5;

(iv) funds sufficient to pay any interest accruing at the Default Rate, late payment charges, if any, and any other sums due and payable to Lender under any of the Loan Documents, shall be withdrawn and paid to Lender and applied against such items;

(v) funds sufficient to pay Lockbox Bank for all costs and expenses incurred by Lockbox Bank in connection with the maintenance and administration of the Lockbox Account;

(vi) funds sufficient to pay Lender or any Loan servicer, as applicable, the customary fees and expenses incurred in connection with maintaining the Cash Management Account; and

(vii) funds in an amount equal to the balance (if any) remaining on deposit in the Cash Management Account after the foregoing withdrawals and allocations shall be deposited in the Excess Cash Reserve Account to be held and disbursed in accordance with Section

9.7. Upon the discontinuance of a Cash Management Period, funds (if any) on deposit in the Excess Cash Reserve Account shall be transferred to Borrower's Account.

(d) Notwithstanding anything to the contrary herein, Borrower acknowledges that Borrower is responsible for monitoring the sufficiency of funds deposited in the Cash Management Account and that Borrower is liable for any deficiency in available funds, irrespective of whether Borrower has received any account statement, notice or demand from Lender or Lender's servicer. If the amount on deposit in the Cash Management Account is insufficient to make all of the withdrawals and allocations described in Section 10.2(c)(i) through (vi) above, Borrower shall deposit such deficiency into the Cash Management Account within five (5) days (provided that such five day period shall not constitute a grace period for any default or Event of Default under this Agreement or any other Loan Document based on a failure to satisfy any monetary obligation provided in any Loan Document).

(e) Notwithstanding anything to the contrary contained herein, if an Event of Default shall have occurred and be continuing, Borrower hereby irrevocably authorizes Lender to make any and all withdrawals from the Lockbox Account and Cash Management Account and transfers between any of the Reserve Accounts as Lender shall determine in Lender's sole and absolute discretion and Lender may use all funds contained in any such accounts for any purpose, including but not limited to repayment of the Debt in such order, proportion and priority

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as Lender may determine in its sole and absolute discretion. Lender's right to withdraw and apply funds as stated herein shall be in addition to all other rights and remedies provided to Lender under this Agreement, the Note, the Mortgage and the other Loan Documents.

#### SECTION 10.3. SECURITY INTEREST

(a) To secure the full and punctual payment of the Debt and performance of all obligations of Borrower now or hereafter existing under this Agreement and the other Loan Documents, Borrower hereby grants to Lender a first-priority perfected security interest in the Lockbox Account and Cash Management Account, all interest, cash, checks, drafts, certificates and instruments, if any, from time to time deposited or held therein, any and all amounts invested in Permitted Investments, and all "proceeds" (as defined in the UCC as in effect in the state in which the Lockbox Account and Cash Management Account are located or maintained) of any or all of the foregoing. Furthermore, Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any of the foregoing or permit any Lien to attach thereto or any levy to be made thereon or any UCC Financing Statements to be filed with respect thereto. Borrower will maintain the security interest created by this Section 10.3(a) as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Lockbox Account and Cash Management Account against the claims and demands of all Persons whomsoever.

(b) Borrower authorizes Lender to file any financing statement or statements required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein in connection with the Lockbox Account and Cash Management Account. Borrower agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly and duly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby (including, without limitation, any security interest in and to any Permitted Investments) or to enable Lender to exercise and enforce its rights and remedies hereunder.

(c) Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured

party, pledgee and lienholder with respect to the Lockbox Account and Cash Management Account. Without limitation of the foregoing, upon any Event of Default, Lender may use the Lockbox Account and Cash Management Account for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses, fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents; (D) payment of any item as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Lockbox Account and Cash Management

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Account and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Lockbox Account or Cash Management Account to effect a cure of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

SECTION 10.4. DEFINITIONS. Notwithstanding anything to the contrary contained herein, For purposes of this Article 10 only, Business Day shall mean a day on which Lender and Lockbox Bank are both open for the conduct of substantially all of their respective banking business at the office in the city in which the Note is payable, with respect to Lender and at the office in the city where the Lockbox Account is maintained, with respect to Lockbox Bank (in both instances, excluding Saturdays and Sundays).

#### ARTICLE 11 EVENTS OF DEFAULT; REMEDIES

##### SECTION 11.1. EVENT OF DEFAULT

The occurrence of any one or more of the following events shall constitute an "EVENT OF DEFAULT":

(a) if any portion of the Debt is not paid prior to the tenth (10th) calendar day following the date the same is due or if the entire Debt is not paid on or before the Maturity Date;

(b) except as otherwise expressly provided in the Loan Documents, if any of the Taxes or Other Charges are not paid when the same are due and payable, unless there is sufficient money in the Tax and Insurance Reserve Account for payment of amounts then due and payable and Lender's access to such money has not been constrained or restricted in any manner;

(c) if the Policies are not kept in full force and effect, or if the Insurance Certificates or certified copies of the Policies are not delivered to Lender as provided in Section 8.1;

(d) if Borrower breaches (i) any covenant with respect to itself or any SPE Component Entity (if any) contained in Article 6 and (A) such breach is not cured within ten (10) days of the occurrence thereof and (B) if an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower fails to deliver to Lender, within such ten (10) day period, a new or revised Insolvency Opinion, in form and substance, and from a source satisfactory to Lender and if the Loan has been Securitized, the Rating Agencies, to the effect that such breach does not negate or impair the opinion

previously delivered to Lender, or (ii) any covenant contained in Article 7 hereof;

(e) if any representation or warranty of, or with respect to, Borrower, Borrower Principal, any SPE Component Entity, or any member, general partner, principal or beneficial owner of any of the foregoing, made herein, in any other Loan Document, or in any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the

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closing of the Loan or during the term of the Loan shall have been false or misleading in any material respect when made;

(f) if (i) Borrower, or any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall commence any case, proceeding or other action (A) under any Creditors Rights Laws, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action 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 for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(g) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property, whether it be superior or junior in lien to the Mortgage;

(h) if the Property becomes subject to any mechanic's, materialman's or other Lien other than a Lien for any Taxes or Other Charges not then due and payable and the Lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of sixty (60) days;

(i) if any federal tax lien is filed against Borrower, any member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) or the Property and same is not discharged of record within sixty (60) days after same is filed;

(j) if a final non-appealable judgment is filed against Borrower in excess of \$500,000 which is not vacated or discharged within 45 days;

(k) intentionally deleted;

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(l) if Borrower shall permit any event within its control to occur that would cause any material REA to terminate without notice or action by any party thereto or would entitle any party to terminate any material REA and the term thereof by giving notice to Borrower; or any material REA shall be surrendered, terminated or canceled for any reason or under any circumstance whatsoever except as provided for in such REA; or any term of any material REA shall be modified or supplemented in any material respect without Lender's prior written consent; or Borrower shall fail, within ten (10) Business Days after demand by Lender, to exercise its option to renew or extend the term of any material REA or shall fail or neglect to pursue diligently all actions necessary to exercise such renewal rights pursuant to such REA except as provided for in such REA; or

(m) if Borrower shall continue to be in default under any other term, covenant or condition of this Agreement or any of the Loan Documents (including, but not limited to, any guaranty or indemnity) for more than ten (10) days after notice from Lender in the case of any default which can be cured by the payment of a sum of money or for thirty (30) days after notice from Lender in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days.

#### SECTION 11.2. REMEDIES

(a) Upon the occurrence and during the continuance of an Event of Default (other than an Event of Default described in Section 11.1(f) above) and at any time thereafter (until such Event of Default is cured) Lender may, in addition to any other rights or remedies available to it pursuant to this Agreement and the other Loan Documents or at law or in equity, take such action, without notice or demand, that Lender deems advisable to protect and enforce its rights against Borrower and in the Property, including, without limitation, declaring the Debt to be immediately due and payable, and Lender may enforce or avail itself of any or all rights or remedies provided in the Loan Documents against Borrower and the Property, including, without limitation, all rights or remedies available at law or in equity; and upon any Event of Default described in Section 11.1(f) above, the Debt and all other obligations of Borrower hereunder and under the other Loan Documents shall immediately and automatically become due and payable, without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in any other Loan Document to the contrary notwithstanding.

(b) Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to Lender against Borrower under this Agreement or any of the other Loan Documents executed and delivered by, or applicable to, Borrower or at law or in equity may be exercised by Lender at any time and from time to time, whether or not all or any of the Debt shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Loan Documents with respect to the Property. Any such actions taken by Lender shall be cumulative and concurrent and may be pursued independently, singularly, successively, together or otherwise, at such time and in such order as Lender may

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determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by law, equity or contract or as set forth herein or in the other Loan Documents.

#### SECTION 12.1. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants, to its knowledge based upon an Environmental Report of the Property and information that Borrower knows or should reasonably have known, that: (a) there are no Hazardous Materials or underground storage tanks in, on, or under the Property, except those that are both (i) in compliance with Environmental Laws and with permits issued pursuant thereto (if such permits are required), if any, and (ii) either (A) in the case of Hazardous Materials, in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing pursuant to an Environmental Report; (b) there are no past, present or threatened Releases of Hazardous Materials in violation of any Environmental Law or which would require remediation by a Governmental Authority in, on, under or from the Property except as described in the Environmental Report; (c) there is no threat of any Release of Hazardous Materials migrating to the Property except as described in the Environmental Report; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Property except as described in the Environmental Report; (e) Borrower has not received any written notice or other communication from any Person relating to Hazardous Materials in, on, under or from the Property; and (f) Borrower has truthfully and fully provided to Lender, in writing, any and all information relating to material environmental conditions in, on, under or from the Property known to Borrower or contained in Borrower's files and records, including but not limited to any reports relating to Hazardous Materials in, on, under or migrating to or from the Property and/or to the environmental condition of the Property.

#### SECTION 12.2. ENVIRONMENTAL COVENANTS

Borrower covenants and agrees that so long as Borrower owns, manages, is in possession of, or otherwise controls the operation of the Property: (a) all uses and operations on or of the Property, whether by Borrower or any other Person, shall be in material compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases (in violation of any Environmental Laws) of Hazardous Materials in, on, under, or from the Property; (c) there shall be no Hazardous Materials in, on, or under the Property, except those that are both (i) in material compliance with all Environmental Laws and with permits issued pursuant thereto, if and to the extent required, and (ii) (A) in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing; (d) Borrower shall keep the Property free and clear of all Environmental Liens; (e) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Section 12.4 below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (f) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property, pursuant to any

reasonable written request of Lender, upon Lender's reasonable belief that the Property is not in full compliance with all Environmental Laws, and share with Lender the reports and other results thereof, and Lender and other Indemnified Parties shall be entitled to rely on such reports and other results thereof; (g) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (i) reasonably effectuate remediation of any Hazardous Materials in, on, under or from the Property; and (ii) comply in all material respects with any Environmental Law; (h) Borrower shall not allow any tenant or other user of the Property to violate any Environmental Law; and (i) Borrower shall immediately notify Lender in writing after it has become aware of (A) any presence or Release or threatened Release of Hazardous Materials in, on, under, from or migrating towards the Property; (B) any material non-compliance with any Environmental Laws related in any way to the Property; (C) any actual or potential Environmental Lien against the Property; (D) any required or proposed remediation of environmental conditions relating to the Property; and (E) any written notice or other communication of which Borrower becomes aware from any

source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials.

#### SECTION 12.3. LENDER'S RIGHTS

Lender and any other Person designated by Lender, including but not limited to any representative of a Governmental Authority, and any environmental consultant, and any receiver appointed by any court of competent jurisdiction, shall have the right, but not the obligation, to enter upon the Property at all reasonable times (upon reasonable notice) to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lender's reasonable discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Borrower shall cooperate with and provide access to Lender and any such person or entity designated by Lender.

#### SECTION 12.4. OPERATIONS AND MAINTENANCE PROGRAMS

If recommended by the Environmental Report or any other environmental assessment or audit of the Property, Borrower shall establish and comply with an operations and maintenance program with respect to the Property, in form and substance reasonably acceptable to Lender, prepared by an environmental consultant reasonably acceptable to Lender, which program shall address any asbestos-containing material or lead based paint that may now or in the future be detected at or on the Property. Without limiting the generality of the preceding sentence, Lender may require (a) periodic notices or reports to Lender in form, substance and at such intervals as Lender may specify, (b) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters, (c) at Borrower's sole expense, supplemental examination of the Property by consultants specified by Lender, (d) access to the Property by Lender, its agents or servicer, to review and assess the environmental condition of the Property and Borrower's compliance with any operations and maintenance program, and (e) variation of the operations and maintenance program in response to the reports provided by any such consultants.

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#### SECTION 12.5. ENVIRONMENTAL DEFINITIONS

"ENVIRONMENTAL LAW" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other government directives or requirements, as well as common law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, that apply to Borrower or the Property and relate to Hazardous Materials or protection of human health or the environment. "ENVIRONMENTAL LIENS" means all Liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other Person. "ENVIRONMENTAL REPORT" means the written reports resulting from the environmental site assessments of the Property delivered to Lender in connection with the Loan. "HAZARDOUS MATERIALS" shall mean petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls 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 Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a "hazardous substance," "hazardous material," "hazardous waste", "toxic substance", "toxic pollutant", "contaminant", or "pollutant" within the meaning of any Environmental Law. "RELEASE" of any Hazardous Materials includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

## SECTION 12.6. INDEMNIFICATION

(a) Borrower and Borrower Principal covenant and agree at their sole cost and expense, to protect, defend, indemnify, release and hold Indemnified Parties harmless from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (i) any presence of any Hazardous Materials in, on, above, or under the Property; (ii) any past, present or threatened Release of Hazardous Materials in, on, above, under or from the Property; (iii) any activity by Borrower, any Person affiliated with Borrower, and any Tenant or other user of the Property in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other Release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Hazardous Materials at any time located in, under, on or above the Property or any actual or proposed remediation of any Hazardous Materials at any time located in, under, on or above the Property, whether or not such remediation is voluntary or pursuant to court or administrative order, including but not limited to any removal, remedial or corrective action; (iv) any past, present or threatened non-compliance or violations of any Environmental Laws (or permits issued pursuant to any Environmental Law) in connection with the Property or operations thereon, including but not limited to any failure by Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property to comply with any order of any Governmental Authority in connection with any Environmental Laws; (v) the imposition, recording or filing or the threatened imposition,

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recording or filing of any Environmental Lien encumbering the Property; (vi) any acts of Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property in (A) arranging for disposal or treatment, or arranging with a transporter for transport for disposal or treatment, of Hazardous Materials at any facility or incineration vessel containing such or similar Hazardous Materials or (B) accepting any Hazardous Materials for transport to disposal or treatment facilities, incineration vessels or sites from which there is a Release, or a threatened Release of any Hazardous Substance which causes the incurrence of costs for remediation; and (vii) any misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any covenants or other obligations pursuant to this Agreement relating to environmental matters (the matters listed in clauses (i) through (vii) above are each hereinafter referred to as an "ENVIRONMENTAL PROBLEM".

(b) Upon written request by any Indemnified Party, Borrower and Borrower Principal shall defend same (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their reasonable discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Borrower and Borrower Principal shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

(c) Notwithstanding the foregoing, Borrower shall have no liability for any Losses imposed upon or incurred by or asserted against any Indemnified Parties and described in subsection (a) above to the extent that Borrower can conclusively prove both that such Losses were caused solely by actions, conditions or events that occurred after the date that Lender (or any purchaser at a foreclosure sale) actually acquired title to the Property and that such Losses were not caused by the direct or indirect actions of Borrower, Borrower Principal, or any partner, member, principal, officer, director, trustee or manager of Borrower or Borrower Principal or any employee, agent,

contractor or Affiliate of Borrower or Borrower Principal. The obligations and liabilities of Borrower and Borrower Principal under this Section 12.6 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, provided however, that in the event (i) the Debt is paid in full in the ordinary course, (ii) Borrower delivers to Lender a Phase I environmental site assessment with respect to the Property which concludes that the Property does not contain any Hazardous Materials and is not subject to any significant risk of contamination from any off site Hazardous Materials in violation of the representations, warranties, and covenants set forth in this Article 12 Agreement, as determined by Lender, (iii) no Event of Default exists and is continuing, (iv) Lender has not exercised any of its remedies under Section 11.2 hereof to obtain an entry of a judgment of foreclosure, exercise any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, (v) as of the date of determination, all of the representations and warranties contained in this Article 12 are true and correct, as determined by Lender and (vi) there has been no change, between the date hereof and the date the Loan is paid in full, in any Environmental Law which would impose liability on a mortgagee or lender with respect to any Environmental Problem notwithstanding the payment in full of the Loan, Borrower and Borrower Principal shall

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be released from its obligations under this Agreement on the third (3rd) anniversary of the date on which items (i)-(vi) above are satisfied.

ARTICLE 13  
SECONDARY MARKET

SECTION 13.1. TRANSFER OF LOAN

Lender may, at any time, sell, transfer or assign the Loan Documents, or grant participations therein ("PARTICIPATIONS") or syndicate the Loan ("SYNDICATION") or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement ("SECURITIES") (a Syndication or the issuance of Participations and/or Securities, a "SECURITIZATION").

SECTION 13.2. DELEGATION OF SERVICING

At the option of Lender, the Loan may be serviced by a servicer/trustee selected by Lender and Lender may delegate all or any portion of its responsibilities under this Agreement and the other Loan Documents to such servicer/trustee pursuant to a servicing agreement between Lender and such servicer/trustee.

SECTION 13.3. DISSEMINATION OF INFORMATION

Lender may forward to each purchaser, transferee, assignee, or servicer of, and each participant, or investor in, the Loan, or any Participations and/or Securities or any of their respective successors (collectively, the "INVESTOR") or any Rating Agency rating the Loan, or any Participations and/or Securities, each prospective Investor, and any organization maintaining databases on the underwriting and performance of commercial mortgage loans, all documents and information which Lender now has or may hereafter acquire relating to the Debt and to Borrower, any managing member or general partner thereof, Borrower Principal, any SPE Component Entity (if any) and the Property, including financial statements, whether furnished by Borrower or otherwise, as Lender determines necessary or desirable. Borrower irrevocably waives any and all rights it may have under applicable Legal Requirements to prohibit such disclosure, including but not limited to any right of privacy. In the event of a conflict between any of the provisions of this Section 13.3 and paragraph 5 of that certain letter agreement dated as of August 25, 2003 by Banc of America Securities LLC and accepted and agreed to by Borrower Principal (the "ADVISORY AGREEMENT") (the provisions of which are set forth on Schedule 4, attached hereto) relating to, among other things, confidentiality and the dissemination

of certain confidential information, the provisions of the Advisory Agreement shall control.

SECTION 13.4. COOPERATION

At the request of the holder of the Note and, to the extent not already required to be provided by Borrower under this Agreement, Borrower and Borrower Principal shall use reasonable efforts to provide updates of the information (i) delivered by Borrower under Section 3.20 hereof or (ii) required to be delivered by Borrower under Article 5 hereof, including, without limitation, to:

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(a) provide updated financial, budget and other information with respect to the Property, Borrower, Borrower Principal and Manager (all of the foregoing being referred to as the "PROVIDED INFORMATION");

(b) make changes to the organizational documents of Borrower, any SPE Component Entity and their respective principals;

(c) at Borrower's expense, cause counsel to render or update existing opinion letters as to enforceability and non-consolidation, which may be relied upon by the holder of the Note, the Rating Agencies and their respective counsel, which shall be dated as of the closing date of the Securitization;

(d) at Lender's sole cost and expense, permit site inspections in accordance with the terms of this Agreement, appraisals, market studies and other due diligence investigations of the Property, as may be reasonably requested by the holder of the Note or the Rating Agencies or as may be necessary or appropriate in connection with the Securitization;

(e) intentionally deleted;

(f) execute such amendments to the Loan Documents as may be requested by the holder of the Note or the Rating Agencies or otherwise to effect the Securitization including, without limitation, bifurcation of the Loan into two or more components and/or separate notes and/or creating a senior/subordinate note structure; provided, however, that Borrower shall not be required to modify or amend any Loan Document if such modification or amendment would (i) change the interest rate, the stated maturity or the amortization of principal set forth in the Note, except in connection with a bifurcation of the Loan which may result in varying fixed interest rates and amortization schedules, but which shall have the same initial weighted average coupon of the original Note, or (ii) in the reasonable judgment of Borrower, modify or amend any other material economic term of the Loan, or (iii) in the reasonable judgment of Borrower, materially increase Borrower's obligations and liabilities under the Loan Documents;

(g) deliver to Lender and/or any Rating Agency one or more certificates executed by an officer of Borrower certifying as to the accuracy, as of the closing date of the Securitization, of all representations made by Borrower in the Loan Documents as of the Closing Date or, if such representations are no longer accurate, certifying as to what modifications to the representations would be required to make such representations accurate as of the closing date of the Securitization;

(h) have reasonably appropriate personnel participate in a bank meeting and/or presentation for the Rating Agencies or Investors;

(i) cooperate with and assist Lender in obtaining ratings of the Securities from two (2) or more of the Rating Agencies; and

(j) if required by any Rating Agency, deliver, at Borrower's sole cost and expense and within fifteen (15) Business Days of Lender's request therefore, (1) opinions relating to certain aspects of federal and Delaware law and Borrower's status as a single member Delaware limited liability company

thereunder and (2) an Insolvency Opinion, which such opinions shall

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be given by a law firm acceptable to such Rating Agency and shall otherwise be in form and substance acceptable to such Rating Agency. Lender hereby acknowledges that Borrower may deliver such opinions in one consolidated opinion that, together with the Loan, addresses other Loans (made by Lender) relating to Affiliates of Borrower, provided that such opinion adequately identifies Borrower, the Property and other applicable matters relating to the Loan. In addition, Borrower shall make any changes to its organizational documents to the extent required in connection with the issuance of such opinions, provided that such changes shall not result in an adverse economic effect to Borrower.

All reasonable third party costs and expenses incurred by Borrower in connection with Borrower's complying with requests made under this Section 13.4 shall be paid by Borrower. Lender shall be responsible for all of its out-of-pocket costs in connection with a securitization.

In the event that Borrower requests any consent or approval hereunder and the provisions of this Agreement or any Loan Documents require the receipt of written confirmation from each Rating Agency with respect to the rating on the Securities, or, in accordance with the terms of the transaction documents relating to a Securitization, such a rating confirmation is required in order for the consent of Lender to be given, Borrower shall pay all of the costs and expenses of Lender, Lender's servicer and each Rating Agency in connection therewith, and, if applicable, shall pay any fees imposed by any Rating Agency as a condition to the delivery of such confirmation. Lender agrees, upon request, to use commercially reasonable efforts to cooperate with Borrower and to facilitate Borrower's efforts to obtain any such rating confirmation as required hereunder, which cooperation shall include supplying the Rating Agencies with copies of reports, documents and other information and materials provided to Lender by Borrower, provided however, that in no event shall (1) Lender be required to incur any costs or expenses (other than de minimus costs or expenses) in connection with such cooperation or (2) Lender's agreement hereunder to cooperate with Borrower in obtaining a rating confirmation obligate Lender to institute (or threaten to institute) or participate in (or threaten to participate in) any litigation, suits, or proceedings at law or in equity against any Rating Agency in connection with Borrower's efforts to obtain such rating confirmation.

#### SECTION 13.5. SECURITIZATION INDEMNIFICATION

(a) Borrower understands that certain of the Provided Information may be included in disclosure documents in connection with the Securitization, including, without limitation, a prospectus, prospectus supplement, offering memorandum or private placement memorandum (each, a "DISCLOSURE DOCUMENT") and may also be included in filings with the Securities and Exchange Commission pursuant to the Securities Act or the Exchange Act, or provided or made available to investors or prospective investors in the Securities, the Rating Agencies, and service providers relating to the Securitization. In the event that the Disclosure Document is required to be revised prior to the sale of all Securities, Borrower will cooperate with the holder of the Note in updating the Disclosure Document by providing all current information required to be delivered by Borrower under Article 5 hereof necessary to keep the Disclosure Document accurate and complete in all material respects.

(b) Borrower agrees to provide in connection with each of (i) a preliminary and a final offering memorandum or private placement memorandum or similar document (including

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any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or (ii) a preliminary and final prospectus or prospectus supplement, as applicable, an indemnification certificate (A)

indemnifying Lender (and for purposes of this Section 13.5, Lender hereunder shall include its officers and directors) and the Affiliate of Lender that (i) has filed the registration statement, if any, relating to the Securitization and/or (ii) which is acting as issuer, depositor, sponsor and/or a similar capacity with respect to the Securitization (any Person described in (i) or (ii), an "ISSUER PERSON") and each director and officer of any Issuer Person, and each Person or entity who controls any Issuer Person within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the "ISSUER GROUP") for any Losses to which Lender or the Issuer Group may become subject insofar as the Losses arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or necessary in order to make the statements in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or in light of the circumstances under which they were made, not misleading (collectively the "SECURITIES LIABILITIES") and (B) agreeing to reimburse Lender and the Issuer Group for any legal or other expenses reasonably incurred by Lender and Issuer Group in connection with investigating or defending the Securities Liabilities; provided, however, that Borrower will be liable in any such case under clauses (A) or (B) above only to the extent that any such Securities Liabilities arise out of or is based upon any such untrue statement or omission made therein in reliance upon and in conformity with information furnished to Lender or any member of the Issuer Group by or on behalf of Borrower in connection with the Provided Information. This indemnity agreement will be in addition to any liability which Borrower may otherwise have. Moreover, the indemnification provided for in Clauses (A) and (B) above shall be effective in the event an indemnification certificate certifying that Borrower has carefully examined any preliminary or a final offering memorandum described above or prospectus or other document (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan), as applicable, including without limitation, the sections entitled "Special Considerations," and/or "Risk Factors," and "Certain Legal Aspects of the Mortgage Loan," or similar sections, and all sections relating to Borrower, Borrower Principal, Manager, their Affiliates, the Loan, the Loan Documents and the Property, and any risks or special considerations relating thereto, and that, to the best of Borrower's knowledge, such sections (and any other sections reasonably requested) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading has been requested by Lender and has not been provided by Borrower and shall be applicable based on information previously provided by Borrower or its Affiliates if Borrower does not provide such requested indemnification certificate.

(c) In connection with filings under the Exchange Act or any information provided to holders of Securities on an ongoing basis, Borrower agrees to indemnify (i) Lender and the Issuer Group for Losses to which Lender or the Issuer Group may become subject insofar as the Securities Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information a material fact required to be stated in the Provided Information in

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order to make the statements in the Provided Information, in light of the circumstances under which they were made not misleading and (ii) reimburse Lender or the Issuer Group for any legal or other expenses reasonably incurred by Lender or the Issuer Group in connection with defending or investigating the Securities Liabilities.

(d) Promptly after receipt by an indemnified party under this Section 13.5 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party



under this Section 13.5, notify the indemnifying party in writing of the commencement thereof, but the omission to so notify the indemnifying party will not relieve the indemnifying party from any liability which the indemnifying party may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the indemnifying party. In the event that any action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. After notice from the indemnifying party to such indemnified party under this Section 13.5 the indemnifying party shall be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there are any legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. The indemnifying party shall not be liable for the expenses of more than one such separate counsel unless an indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to another indemnified party.

(e) In order to provide for just and equitable contribution in circumstances in which the indemnity agreements provided for in Section 13.5(c) or Section 13.5(d) is or are for any reason held to be unenforceable by an indemnified party in respect of any losses, claims, damages or liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 13.5(c) or Section 13.5(d), the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages or liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified party's and Borrower's relative knowledge and access to information concerning the matter with respect to which claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. Lender and Borrower hereby agree that it would not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

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(f) The liabilities and obligations of Borrower, and Lender under this Section 13.5 shall survive the satisfaction of this Agreement and the satisfaction and discharge of the Debt.

#### SECTION 13.6. INTENTIONALLY DELETED

### ARTICLE 14 INDEMNIFICATIONS

#### SECTION 14.1. GENERAL INDEMNIFICATION

Borrower shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs,

adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Applicable Legal Requirements; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (f) the holding or investing of the Reserve Accounts or the performance of the Required Work, or Additional Replacements, or (g) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan (collectively, the "INDEMNIFIED LIABILITIES"); provided, however, that Borrower shall not have any obligation to Lender hereunder to the extent that such Indemnified Liabilities arise from the gross negligence, illegal acts, fraud or willful misconduct of Lender. To the extent that the undertaking to indemnify, defend and hold harmless set forth in the preceding sentence may be unenforceable because it violates any law or public policy, Borrower shall pay the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Lender.

#### SECTION 14.2. MORTGAGE AND INTANGIBLE TAX INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of the Mortgage, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

#### SECTION 14.3. ERISA INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of 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

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that may be required, in Lender's sole discretion) that Lender may incur, directly or indirectly, as a result of a default under Section 4.8 or Section 5.18 of this Agreement.

#### SECTION 14.4. SURVIVAL

The obligations and liabilities of Borrower under this Article 14 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage.

### ARTICLE 15 EXCULPATION

#### SECTION 15.1. EXCULPATION

(a) Except as otherwise provided herein or in the other Loan Documents, Lender shall not enforce the liability and obligation of Borrower or Borrower Principal, as applicable, to perform and observe the obligations contained herein or in the other Loan Documents by any action or proceeding wherein a money judgment shall be sought against Borrower or Borrower Principal, except that Lender may bring a foreclosure action, action for specific performance or other appropriate action or proceeding to enable Lender to

enforce and realize upon this Agreement, the Note, the Mortgage and the other Loan Documents, and the interest in the Property, the Rents and any other collateral given to Lender created by this Agreement, the Note, the Mortgage and the other Loan Documents; provided, however, that any judgment in any such action or proceeding shall be enforceable against Borrower only to the extent of Borrower's interest in the Property, in the Rents and in any other collateral given to Lender. Lender, by accepting this Agreement, the Note, the Mortgage and the other Loan Documents, agrees that it shall not, except as otherwise provided in this Section 15.1, sue for, seek or demand any deficiency judgment against Borrower or Borrower Principal in any such action or proceeding, under or by reason of or under or in connection with this Agreement, the Note, the Mortgage or the other Loan Documents. The provisions of this Section 15.1 shall not, however, (i) constitute a waiver, release or impairment of any obligation evidenced or secured by this Agreement, the Note, the Mortgage or the other Loan Documents; (ii) impair the right of Lender to name Borrower or Borrower Principal as a party defendant in any action or suit for judicial foreclosure and sale under this Agreement and the Mortgage; (iii) affect the validity or enforceability of any indemnity (including, without limitation, those contained in Section 12.6, with respect to Borrower or Borrower Principal, Section 13.5, with respect to Borrower, and Article 14 of this Agreement, with respect to Borrower), guaranty, master lease or similar instrument made in connection with this Agreement, the Note, the Mortgage and the other Loan Documents; (iv) impair the right of Lender to obtain the appointment of a receiver; (v) impair the enforcement of the assignment of leases provisions contained in the Mortgage; or (vi) impair the right of Lender to obtain a deficiency judgment or other judgment on the Note against Borrower or Borrower Principal if necessary to obtain any Insurance Proceeds or Awards to which Lender would otherwise be entitled under this Agreement; provided however, Lender shall only enforce such judgment to the extent of the Insurance Proceeds and/or Awards.

(b) Notwithstanding the provisions of this Section 15.1 to the contrary:

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(1) Borrower and Borrower Principal shall be personally liable to Lender on a joint and several basis for Losses due to:

(i) fraud or intentional misrepresentation by Borrower, Borrower Principal or any other Affiliate of Borrower or Borrower Principal in connection with the execution and the delivery of this Agreement, the Note, the Mortgage, any of the other Loan Documents, or any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the closing of the Loan or during the term of the Loan;

(ii) Borrower's misapplication or misappropriation of Rents received by Borrower after the occurrence and during the continuance of an Event of Default;

(iii) Borrower's misapplication or misappropriation of tenant security deposits or Rents collected in advance and which have not been applied to the operation of the Property;

(iv) the misapplication or the misappropriation of Insurance Proceeds or Awards;

(v) Borrower's failure to pay Taxes, Other Charges (except to the extent that sums sufficient to pay such amounts have been deposited in escrow with Lender pursuant to the terms hereof and there exists no impediment to Lender's utilization thereof) beyond any applicable notice and cure periods specified therein;

(vi) any act of actual intentional physical waste or arson by Borrower, any principal, Affiliate, member or general partner thereof or by Borrower Principal, any principal, Affiliate, member or general partner thereof; or

(vii) the portion of any Rent paid by any Tenant more than thirty (30) days in advance that would have been payable by such Tenant from and after the occurrence of an Event of Default; and

(2) Borrower Principal shall be personally liable to Lender for Losses due to the Property, or any part thereof, becoming an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding. Additionally, Borrower Principal shall be personally liable to Lender for Losses in the event of a breach by Borrower or SPE Component Entity of any of the covenants set forth in Article 6, except to the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d).

(c) Notwithstanding the foregoing, the agreement of Lender not to pursue recourse liability as set forth in subsection (a) above SHALL BECOME NULL AND VOID and shall be of no further force and effect and the Debt shall become fully recourse (1) to Borrower and Borrower Principal, jointly and severally, in the event of a breach of any of the covenants set forth in Article 7 hereof and (2) to Borrower in the event (i) of a breach by Borrower or SPE

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Component Entity of any of the covenants set forth in Article 6, except the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d) hereof or (ii) the Property or any part thereof shall become an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding.

(d) Nothing herein shall be deemed to be a waiver of any right which Lender may have under Section 506(a), 506(b), 1111(b) or any other provision of the U.S. Bankruptcy Code to file a claim for the full amount of the indebtedness secured by the Mortgage or to require that all collateral shall continue to secure all of the indebtedness owing to Lender in accordance with this Agreement, the Note, the Mortgage or the other Loan Documents.

#### ARTICLE 16 NOTICES

##### SECTION 16.1. NOTICES

All notices, consents, approvals and requests required or permitted hereunder or under any other Loan Document shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested, (b) expedited prepaid overnight delivery service, either commercial or United States Postal Service, with proof of attempted delivery, or by (c) telecopier (with answer back acknowledged provided an additional notice is given pursuant to subsection (b) above), addressed as follows (or at such other address and Person as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for in this Section):

If to Lender: To the Lender notice addresses set forth on Schedule 1, attached hereto.

If to Borrower: c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606

Attention: President  
Facsimile No.: (312) 279-1710

With a copy to: c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Attention: General Counsel  
Facsimile No.: (312) 279-1715

and to: Katten Muchin Zavis Rosenman  
525 West Monroe Street, Suite 1600  
Chicago, Illinois 60661

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Attention: Daniel J. Perlman, Esq.  
Facsimile No.: (312) 902-1061

A notice shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day; or in the case of expedited prepaid delivery and telecopy, upon the first attempted delivery on a Business Day.

ARTICLE 17  
FURTHER ASSURANCES

SECTION 17.1. REPLACEMENT DOCUMENTS

Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

SECTION 17.2. RECORDING OF MORTGAGE, ETC.

Borrower forthwith upon the execution and delivery of the Mortgage and thereafter, from time to time, will cause the Mortgage and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Mortgage, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Mortgage, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

SECTION 17.3. FURTHER ACTS, ETC.

Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, deeds of trust, mortgages, assignments, security agreements, control agreements, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed,

pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or

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may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Agreement or for filing, registering or recording the Mortgage, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements and financing statement amendments to evidence more effectively, perfect and maintain the priority of the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation, such rights and remedies available to Lender pursuant to this Section 17.3.

#### SECTION 17.4. CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP LAWS

(a) If any law is enacted or adopted or amended after the date of this Agreement which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable without any prepayment premium.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of the Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable without any prepayment premium.

If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Mortgage, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

#### SECTION 17.5. EXPENSES

Borrower covenants and agrees to pay or, if Borrower fails to pay, to reimburse, Lender upon receipt of written notice from Lender for all reasonable costs and expenses (including reasonable, actual attorneys' fees and disbursements reasonably incurred by Lender in accordance with this Agreement in connection with (a) the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby and all the costs of furnishing all opinions by counsel for Borrower (including without limitation any opinions requested by Lender as to any legal matters arising under this Agreement or the other Loan Documents with respect to the Property); (b) Borrower's ongoing performance of and compliance with Borrower's respective

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agreements and covenants contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date, including, without limitation, confirming compliance with environmental and

insurance requirements; (c) following a request by Borrower, Lender's ongoing performance and compliance with all agreements and conditions contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date; (d) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Agreement and the other Loan Documents and any other documents or matters requested by Lender; (e) securing Borrower's compliance with any requests made pursuant to the provisions of this Agreement; (f) the filing and recording fees and expenses, title insurance and reasonable fees and expenses of counsel for providing to Lender all required legal opinions, and other similar expenses incurred in creating and perfecting the Lien in favor of Lender pursuant to this Agreement and the other Loan Documents; (g) enforcing or preserving any rights, in response to third party claims or the prosecuting or defending of any action or proceeding or other litigation, in each case against, under or affecting Borrower, this Agreement, the other Loan Documents, the Property, or any other security given for the Loan; and (h) enforcing any obligations of or collecting any payments due from Borrower under this Agreement, the other Loan Documents or with respect to the Property or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or of any insolvency or bankruptcy proceedings; provided, however, that Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of Lender.

ARTICLE 18  
WAIVERS

SECTION 18.1. REMEDIES CUMULATIVE; WAIVERS

The rights, powers and remedies of Lender under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which Lender may have against Borrower or Borrower Principal pursuant to this Agreement or the other Loan Documents, or existing at law or in equity or otherwise. Lender's rights, powers and remedies may be pursued singularly, concurrently or otherwise, at such time and in such order as Lender may determine in Lender's sole discretion. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

SECTION 18.2. MODIFICATION, WAIVER IN WRITING

No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, or of the Note, or of any other Loan Document, nor consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given.

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Except as otherwise expressly provided herein, no notice to, or demand on Borrower, shall entitle Borrower to any other or future notice or demand in the same, similar or other circumstances.

SECTION 18.3. DELAY NOT A WAIVER

Neither any failure nor any delay on the part of Lender in insisting upon strict performance of any term, condition, covenant or agreement, or exercising any right, power, remedy or privilege hereunder, or under the Note or under any other Loan Document, or any other instrument given as security therefor, shall operate as or constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other future exercise, or the exercise of

any other right, power, remedy or privilege. In particular, and not by way of limitation, by accepting payment after the due date of any amount payable under this Agreement, the Note or any other Loan Document, Lender shall not be deemed to have waived any right either to require prompt payment when due of all other amounts due under this Agreement, the Note or the other Loan Documents, or to declare a default for failure to effect prompt payment of any such other amount.

SECTION 18.4. TRIAL BY JURY

BORROWER, BORROWER PRINCIPAL AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER, BORROWER PRINCIPAL AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER, BORROWER PRINCIPAL AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER, BORROWER PRINCIPAL AND LENDER.

SECTION 18.5. WAIVER OF NOTICE

Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Agreement or the other Loan Documents specifically and expressly provide for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Agreement or the other Loan Documents do not specifically and expressly provide for the giving of notice by Lender to Borrower.

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SECTION 18.6. REMEDIES OF BORROWER

In the event that a claim or adjudication is made that Lender or its agents have acted unreasonably or unreasonably delayed acting in any case where by law or under this Agreement or the other Loan Documents, Lender or such agent, as the case may be, has an obligation to act reasonably or promptly, Borrower agrees that neither Lender nor its agents shall be liable for any monetary damages, and Borrower's sole remedies shall be limited to commencing an action seeking injunctive relief or declaratory judgment. The parties hereto agree that any action or proceeding to determine whether Lender has acted reasonably shall be determined by an action seeking declaratory judgment. Lender agrees that, in such event, it shall cooperate in expediting any action seeking injunctive relief or declaratory judgment.

SECTION 18.7. WAIVER OF MARSHALLING OF ASSETS

To the fullest extent permitted by law, Borrower, for itself and its successors and assigns, waives all rights to a marshalling of the assets of Borrower, Borrower's partners and others with interests in Borrower, and of the Property, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of the Property for the collection of the Debt without any prior or different resort for collection or of the right of Lender to the payment of the Debt out of the net proceeds of the Property in preference to every other claimant whatsoever.

SECTION 18.8. WAIVER OF STATUTE OF LIMITATIONS

Borrower hereby expressly waives and releases, to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to



payment of the Debt or performance of its Other Obligations.

SECTION 18.9. WAIVER OF COUNTERCLAIM

Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Lender or its agents.

ARTICLE 19  
GOVERNING LAW

SECTION 19.1. CHOICE OF LAW

This Agreement shall be deemed to be a contract entered into pursuant to the laws of the State of New York and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of New York, provided however, (a) that with respect to the creation, perfection, priority and enforcement of any Lien created by the Loan Documents, and the determination of deficiency judgments, the laws of the state where the Property is located shall apply, and (b) with respect to the security interest in each of the Reserve Accounts and the Lockbox Account, the laws of the state where each such account is located shall apply.

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SECTION 19.2. SEVERABILITY

Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

SECTION 19.3. PREFERENCES

Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by Borrower to any portion of the obligations of Borrower hereunder. To the extent Borrower makes a payment or payments to Lender, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Creditors Rights Laws, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the obligations hereunder or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by Lender.

ARTICLE 20  
MISCELLANEOUS

SECTION 20.1. SURVIVAL

This Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by Lender of the Loan and the execution and delivery to Lender of the Note, and shall continue in full force and effect so long as all or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth herein or in the other Loan Documents. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Agreement, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and assigns of Lender.

SECTION 20.2. LENDER'S DISCRETION

Whenever pursuant to this Agreement, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole discretion of Lender and shall be final and conclusive.

#### SECTION 20.3. HEADINGS

The Article and/or Section headings and the Table of Contents in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

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#### SECTION 20.4. COST OF ENFORCEMENT

In the event (a) that the Mortgage is foreclosed in whole or in part, (b) of the bankruptcy, insolvency, rehabilitation or other similar proceeding in respect of Borrower or any of its constituent Persons or an assignment by Borrower or any of its constituent Persons for the benefit of its creditors, or (c) Lender exercises any of its other remedies under this Agreement or any of the other Loan Documents, Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including attorneys' fees and costs, incurred by Lender or Borrower in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, together with all required service or use taxes.

#### SECTION 20.5. SCHEDULES INCORPORATED

The Schedules annexed hereto are hereby incorporated herein as a part of this Agreement with the same effect as if set forth in the body hereof.

#### SECTION 20.6. OFFSETS, COUNTERCLAIMS AND DEFENSES

Any assignee of Lender's interest in and to this Agreement, the Note and the other Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to such documents which Borrower may otherwise have against any assignor of such documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Borrower in any action or proceeding brought by any such assignee upon such documents and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Borrower.

#### SECTION 20.7. NO JOINT VENTURE OR PARTNERSHIP; NO THIRD PARTY BENEFICIARIES

(a) Borrower and Lender intend that the relationships created hereunder and under the other Loan Documents be solely that of borrower and lender. Nothing herein or therein is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender nor to grant Lender any interest in the Property other than that of mortgagee, beneficiary or lender.

(b) This Agreement and the other Loan Documents are solely for the benefit of Lender and Borrower and nothing contained in this Agreement or the other Loan Documents shall be deemed to confer upon anyone other than Lender and Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so.

(c) The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the

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Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

(d) Notwithstanding anything to the contrary contained herein, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(e) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Agreement, the Mortgage, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

(f) Borrower recognizes and acknowledges that in accepting this Agreement, the Note, the Mortgage and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the representations and warranties set forth in Article 4 of this Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Agreement, the Note, the Mortgage and the other Loan Documents in the absence of the warranties and representations as set forth in Article 4 of this Agreement.

#### SECTION 20.8. PUBLICITY

All news releases, publicity or advertising by Borrower or its Affiliates through any media intended to reach the general public which refers to the Loan, Lender, Banc of America Securities LLC, or any of their Affiliates shall be subject to the prior written approval of Lender, not to be unreasonably withheld, provided however, that Lender's consent shall not be required in connection with any such news releases, publicity or advertising by Borrower or its Affiliates to the extent Borrower or its Affiliates are required to make such news releases pursuant to applicable Legal Requirements. Lender shall be permitted to make any news, releases, publicity or advertising by Lender or its Affiliates through any media intended to reach the general public which refers to the Loan, the Property, Borrower, Borrower Principal and their respective Affiliates without the approval of Borrower or any such Persons. Borrower also agrees that Lender may share any information pertaining to the Loan with Bank of America Corporation, including its bank subsidiaries, Banc of America Securities LLC and any other Affiliates of the foregoing, in connection with the sale or transfer of the Loan or any Participations and/or Securities created. In the event of a conflict between any of the provisions of this Section 20.8 and paragraph 5 of the Advisory Agreement, the applicable provisions of the Advisory Agreement shall control.

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#### SECTION 20.9. CONFLICT; CONSTRUCTION OF DOCUMENTS; RELIANCE

In the event of any conflict between the provisions of this Agreement

and any of the other Loan Documents, the provisions of this Agreement shall control. The parties hereto acknowledge that they were represented by competent counsel in connection with the negotiation, drafting and execution of the Loan Documents and that such Loan Documents shall not be subject to the principle of construing their meaning against the party which drafted same. Borrower acknowledges that, with respect to the Loan, Borrower shall rely solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Lender or any parent, subsidiary or Affiliate of Lender. Lender shall not be subject to any limitation whatsoever in the exercise of any rights or remedies available to it under any of the Loan Documents or any other agreements or instruments which govern the Loan by virtue of the ownership by it or any parent, subsidiary or Affiliate of Lender of any equity interest any of them may acquire in Borrower, and Borrower hereby irrevocably waives the right to raise any defense or take any action on the basis of the foregoing with respect to Lender's exercise of any such rights or remedies. Borrower acknowledges that Lender engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Borrower or its Affiliates.

SECTION 20.10. ENTIRE AGREEMENT

This Agreement and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written between Borrower and Lender are superseded by the terms of this Agreement and the other Loan Documents.

SECTION 20.11. TAX DISCLOSURE

Notwithstanding anything herein to the contrary, except as reasonably necessary to comply with applicable securities laws, each party (and each employee, representative or other agent of each party) hereto may disclose to any and all persons, without limitation of any kind, any information with respect to the United States federal income "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are provided to such parties (or their representatives) relating to such tax treatment and tax structure; provided that with respect to any document or similar item that in either case contains information concerning the tax treatment or tax structure of the transaction as well as other information, this sentence shall only apply to such portions of the document or similar item that relate to the United States federal income tax treatment or tax structure of the transactions contemplated hereby.

SECTION 20.12. EXECUTION BY BORROWER PRINCIPAL

Borrower Principal is executing this Agreement solely for the purpose of (a) making the representations and warranties applicable to Borrower Principal contained in Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31,

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4.39, and 4.40 of this Agreement, and (b) agreeing to the terms, covenants and conditions applicable to Borrower Principal contained in Sections 9.8, 12.6, 13.4, 15.1(b), 15.1(c), 18.4, and 18.10.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

BORROWER:

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BORROWER PRINCIPAL:

Acknowledged and agreed to with respect to its obligations set forth in Section 20.12 hereof:

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LENDER:

[BANK OF AMERICA, N.A.,] [MORGAN  
STANLEY MORTGAGE CAPITAL INC.] [WELLS FARGO  
BANK, NATIONAL ASSOCIATION]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[[LOCKBOX BANK:]]

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ACKNOWLEDGED AND AGREED TO WITH RESPECT TO ITS OBLIGATIONS SET FORTH IN ARTICLE 10 HEREOF:

\_\_\_\_\_, a  
\_\_\_\_\_

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_]

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EXHIBIT A

RENT DIRECTION LETTER

EXHIBIT B

BORROWER EQUITY OWNERSHIP STRUCTURE

EXHIBIT C [RELEASE PARCEL PROPERTIES ONLY]  
(OUT PARCEL)

(see attached)

SCHEDULE 1

COUNTRYSIDE

ELIGIBLE INSTITUTION: Bank of America, N.A.

LOCKBOX BANK: Bank of America, N.A.

OPERATING LEASE: Not Applicable

PRINCIPAL AMOUNT OF NOTE: \$3,790,917

NOTE RATE: 5.35%

MATURITY DATE (SECTION 2.2(b)): 11/01/2008

MONTHLY PAYMENT AMOUNT (SECTION 2.2(b)): \$21,169

PAYMENT ADDRESS (SECTION 2.2(d)):

SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD (SECTION 2.4(b) AND SECTION 2.5): the third (3rd) anniversary of the first Scheduled Payment Date

BORROWER ORGANIZATIONAL IDENTIFICATION NUMBER (SECTION 4.2):

LENDER NOTICE ADDRESS (SECTION 16.1):

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SCHEDULE 2  
REQUIRED REPAIRS

(see attached)

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SCHEDULE 3  
BORROWER ACCOUNT

SCHEDULE 4  
(ADVISORY AGREEMENT)

The Manufactured Home Communities, Inc. (the "Company") agrees that all advice given by Banc of America Securities LLC ("BAS") in connection with its engagement hereunder is for the benefit and use of the Company in considering its strategic situation and that no such advice shall be used for any other purpose or be disclosed, reproduced, disseminated, quoted or referred to at any time, in any manner or for any purpose, nor shall any public references to BAS be made by or on behalf of the Company, in each case without BAS' prior written consent, which consent shall not be unreasonably withheld. BAS agrees to maintain the confidentiality of the confidential or proprietary information ("Confidential Information") provided by the Company to BAS in connection with this engagement and to utilize or disclose the Confidential Information only in connection with the activities and transactions contemplated by this letter agreement (the "Permitted Use"). BAS shall only disclose the Confidential Information (i) to its employees, officers, agents, advisors and other representatives (collectively, its "Representatives") who need to know such Confidential Information in connection with the Permitted Use or (ii) as required by law, regulation or legal, governmental or regulatory process but only after, in the case of this clause (iii), notice to the Company, unless such notice is prohibited by law, regulation or legal, governmental or regulatory process. Notwithstanding the foregoing, the following will not constitute Confidential Information: (i) information which was already known to BAS prior to its disclosure by the Company; (ii) information which is obtained by the BAS from a third party who is not known by the BAS to be prohibited from disclosing

the information to the BAS by a contractual, legal or fiduciary obligation to the Company; (iii) information which is or becomes publicly available (other than as a result of disclosure by the BAS in violation of this paragraph); and (iv) information which is independently developed, discovered or arrived at by the BAS or any of its Representatives without use of Confidential Information. BAS shall be liable for any breach of the provisions of this paragraph by its Representatives. The obligations related to Confidential Information contained in this paragraph shall terminate two years from the date of this letter agreement and will survive any earlier termination of this letter agreement. Notwithstanding anything to the contrary contained herein, BAS and the Company shall be permitted to disclose the tax treatment and tax structure of any strategic alternative (including any materials, opinions or analyses relating to such tax treatment or tax structure, but without disclosure of identifying information or, except to the extent relating to such tax structure or tax treatment, any nonpublic commercial or financial information) on and after the earliest to occur of the date of (i) public announcement of discussions relating to such strategic alternative, (ii) public announcement of such strategic alternative or (iii) execution of a definitive agreement (with or without conditions) to enter into such strategic alternative; provided, however, that if such strategic alternative is not consummated for any reason, the provisions of this sentence shall cease to apply with respect to such strategic alternative.

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SCHEDULE 4.5

(LITIGATION)

NONE

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## Schedule Identifying Substantially Identical Agreements to Exhibit No. 10.46.

Various subsidiaries of the Company each entered into a loan agreement which is substantially identical to the loan agreement filed under Exhibit 10.46. The following table lists the borrower, lender and loan amount which differs from that in exhibit 10.46 for each of the 16 loan agreements.

Borrower -----	Lender -----	Loan Amount -----
MHC Bulow Plantation, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$ 10,415,384
MHC Camelot Meadows, L.L.C.	Bank of America, N.A.	\$ 7,408,524
MHC Fairview Manor, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$ 5,120,000
MHC Flamingo West, L.L.C.	Bank of America, N.A.	\$ 10,800,000
MHC Greenwood Village NY, L.L.C.	Bank of America, N.A.	\$ 17,718,064
MHC Hillcrest, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$ 4,296,599
MHC Holiday Ranch, L.L.C.	Bank of America, N.A.	\$ 3,839,005
MHC Lighthouse Pointe, L.L.C.	Bank of America, N.A.	\$ 12,714,829
MHC Pine Lakes Country Club, L.L.C.	Wells Fargo Bank, National Association	\$ 31,499,536
MHC Sherwood Forest, L.L.C.	Bank of America, N.A.	\$ 27,491,293
MHC Southern Palms, L.L.C.	Bank of America, N.A.	\$ 5,732,974
MHC The Heritage, L.L.C.	Bank of America, N.A.	\$ 9,801,912
MHC Golden Lakes, L.L.C.	Bank of America, N.A.	\$ 9,722,325
MHC The Mark, L.L.C.	Bank of America,	
N.A.	\$ 8,952,581	
MHC The Oaks at Countrywood, L.L.C.	Bank of America, N.A.	\$ 1,318,949
MHC Westwood Village, L.L.C.	Wells Fargo Bank, National Association	\$ 7,600,000



LOAN AGREEMENT

Dated as of October 17, 2003

Between

MHC CREEKSIDE ESTATES, L.L.C.

as Borrower

and

BANK OF AMERICA, N.A.

as Lender

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#### LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of October 17, 2003 (as amended, restated, replaced, supplemented or otherwise modified from time to time, this "AGREEMENT"), between BANK OF AMERICA, N.A., having an address at Bank of America Corporate Center, 214 North Tryon Street, Charlotte, North Carolina 28255 (together with its successors and/or assigns, "LENDER") and MHC CREEKSIDE ESTATES, L.L.C., a Delaware limited liability company, having an address at c/o

Manufactured Home Communities, Inc., Two North Riverside Plaza, Suite 800, Chicago, Illinois 60606 (together with its successors and/or assigns, "BORROWER").

RECITALS:

Borrower desires to obtain the Loan (defined below) from Lender.

Lender is willing to make the Loan to Borrower, subject to and in accordance with the terms of this Agreement and the other Loan Documents (defined below).

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

ARTICLE 1

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

SECTION 1.1. DEFINITIONS

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

"ACCEPTABLE ACCOUNTANT" shall mean a "Big Four" accounting firm or other independent certified public accountant acceptable to Lender.

"ACQUIRED PROPERTY" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACQUIRED PROPERTY STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACT" shall have the meaning set forth in Section 6.1(c) hereof.

"ACT OF TERROR" shall have the meaning set forth in Section 9.8 hereof.

"ADVISORY AGREEMENT" shall have the meaning set forth in Section 13.3 hereof.

"AFFILIATE" shall mean, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person or of an Affiliate of such Person.

"AFFILIATED LOANS" shall mean a loan made by Lender to a parent, subsidiary or such other entity affiliated with Borrower or Borrower Principal.

"AFFILIATED MANAGER" shall have the meaning set forth in Section 7.1 hereof.

"AFFILIATE TRANSFER PORTION OF THE PROPERTY" shall have the meaning set forth in Section 7.7 hereof.

"AFFILIATE TRANSFEREE" shall have the meaning set forth in Section 7.7 hereof.

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

"ALTERATION THRESHOLD" means five percent (5%) of the original principal amount of the Loan.

"ANNEX" shall have the meaning set forth in Section 4.40 hereof.

"APPRAISAL" shall mean an appraisal prepared in accordance with the requirements of applicable regulations issued pursuant to Chapter 34A, Title 12, U.S. Code prepared by an independent third party appraiser holding an MAI designation, who is State licensed or State certified if required under the laws of the State where the Property is located, who meets the requirements of applicable regulations issued pursuant to Chapter 34A, Title 12, U.S. Code, and who is otherwise satisfactory to Lender.

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

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

"BASIC CARRYING COSTS" shall mean, with respect to the Property, the sum of the following costs for the relevant fiscal year or payment period: (i) taxes, (ii) Insurance Premiums, and (iii) if applicable, any ground rent.

"BORROWER ACCOUNT" shall have the meaning set forth on Schedule 3 attached hereto.

"BORROWER PRINCIPAL" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"BORROWER PRINCIPAL AFFILIATE" shall have the meaning set forth in Section 2.5 hereof.

"BUSINESS DAY" shall mean a day on which Lender is open for the conduct of substantially all of its banking business at its office in the city in which the Note is payable (excluding Saturdays and Sundays).

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"CASH MANAGEMENT ACCOUNT" shall have the meaning set forth in Section 10.1(a) hereof.

"CASH MANAGEMENT PERIOD" shall mean the existence and continuance of an Event of Default.

"CASUALTY" shall have the meaning set forth in Section 8.2.

"CLOSING DATE" shall mean the date of the funding of the Loan.

"CONSTANT MONTHLY PAYMENT AMOUNT" shall mean the monthly payment of interest and principal due on each Scheduled Payment Date as set forth in Section 2.2(b) hereof.

"CONTROL" shall have the meaning set forth in Section 7.1 hereof.

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

"CONDEMNATION PROCEEDS" shall have the meaning set forth in Section 8.4(b).

"CREDITORS RIGHTS LAWS" shall mean with respect to any Person any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

"DEBT" shall mean the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, this Agreement, the Mortgage or any other Loan Document.

"DEBT SERVICE" shall mean, with respect to any particular period of time, scheduled principal and/or interest payments under the Note.

"DEBT SERVICE COVERAGE RATIO" shall mean, as of any date of determination, for the applicable period of calculation, the ratio, as determined by Lender, of (i) Net Operating Income to (ii) the aggregate amount of Debt Service which would be due for the same period. The Debt Service Coverage Ratio shall be determined by Lender at the end of each calendar quarter throughout the term of the Loan.

"DEFEASED NOTE" shall have the meaning set forth in Section 2.4(c) (i) (D) hereof.

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

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"DEFAULT RATE" shall mean, with respect to the Loan, a rate per annum equal to the lesser of (a) the maximum rate permitted by applicable law, or (b) four percent (4%) above the Note Rate.

"DEFEASANCE COLLATERAL" shall have the meaning set forth in Section 2.4(b) (i) (D) (2) hereof.

"DEFEASANCE SECURITY AGREEMENT" shall have the meaning set forth in Section 2.4(b) (i) (D) (2) hereof.

"DISCLOSURE DOCUMENT" shall have the meaning set forth in Section 13.5 hereof.

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

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

"EMBARGOED PERSON" shall the meaning set forth in Section 4.39.

"ENVIRONMENTAL INDEMNITY" shall mean, in the event such indemnity was executed in connection with the closing of the Loan, an Environmental Indemnity Agreement, dated as of the date hereof, executed by Borrower and Borrower Principal in connection with the Loan for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to

time.

"ENVIRONMENTAL LAW" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL LIENS" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL PROBLEM" shall have the meaning set forth in Section 12.6 hereof.

"ENVIRONMENTAL REPORT" shall have the meaning set forth in Section 12.5 hereof.

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"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statutes thereto and applicable regulations issued pursuant thereto in temporary or final form.

"EVENT OF DEFAULT" shall have the meaning set forth in Section 11.1 hereof.

"EXCHANGE ACT" shall mean the Securities and Exchange Act of 1934, as amended.

"EXCHANGE ACT FILING" shall have the meaning set forth in Section 5.11(c) hereof.

"EXCESS CASH RESERVE ACCOUNT" shall have the meaning set forth in Section 9.7 hereof.

"EXCESS CASH RESERVE FUNDS" shall have the meaning set forth in Section 9.7 hereof.

"FITCH" shall mean Fitch, Inc.

"GAAP" shall mean generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

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

"HAZARDOUS MATERIALS" shall have the meaning set forth in Section 12.5 hereof.

"IMPROVEMENTS" shall have the meaning set forth in the granting clause of the Mortgage.

"INDEMNIFIED PARTIES" shall mean (a) Lender, (b) any prior owner or holder of the Loan or Participations in the Loan, (c) any servicer or prior servicer of the Loan, (d) any Investor or any prior Investor in any Securities, (e) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any Investor or other third party, (f) any receiver or other fiduciary appointed in a foreclosure or other Creditors Rights Laws proceeding, (g) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (h) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties' assets and business), in all cases whether during the term of the Loan or as part of or following a foreclosure of the Mortgage.

"INDEPENDENT DIRECTOR" shall have the meaning set forth in Section



6.4(a).

"INSOLVENCY OPINION" shall mean a bankruptcy non-consolidation opinion, which such opinion shall be provided by outside counsel acceptable to Lender and, if the Loan has been securitized, the Rating Agencies and shall otherwise be in form, scope and substance acceptable to Lender and, if the Loan has been securitized, the Rating Agencies.

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"INSURANCE CERTIFICATES" shall have the meaning set forth in Section 8.1 hereof.

"INSURANCE PREMIUMS" shall have the meaning set forth in Section 8.1(b) hereof.

"INSURANCE PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

"INTEREST SHORTFALL" shall have the meaning set forth in Section 2.4(h) hereof.

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

"INVESTOR" shall have the meaning set forth in Section 13.3 hereof.

"I/O MONTHLY PAYMENT AMOUNT" shall have the meaning set forth in Section 2.2(b) hereof.

"ISSUER GROUP" shall have the meaning set forth in Section 13.5(b) hereof.

"ISSUER PERSON" shall have the meaning set forth in Section 13.5(b) hereof.

"LAUNDRY LEASE" shall have the meaning set forth in Section 4.25 hereof.

"LEASE" shall have the meaning set forth in the Mortgage.

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

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

"LLC AGREEMENT" shall have the meaning set forth in Section 6.1(c).

"LOAN" shall mean the loan made by Lender to Borrower pursuant to this

Agreement.

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"LOAN DOCUMENTS" shall mean, collectively, this Agreement, the Note, the Mortgage, the Environmental Indemnity, (if applicable) the Assignment of Management Agreement, the Lockbox Agreement, and any and all other documents, agreements and certificates executed and/or delivered in connection with the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"LOCKBOX ACCOUNT" shall mean an Eligible Account established pursuant to the Lockbox Agreement for deposit of all Rents and other receipts from the Property.

"LOCKBOX AGREEMENT" shall mean that certain lockbox account, deposit account or restricted account agreement among Borrower, Lender and Lockbox Bank providing for, among other things, control of the Lockbox Account.

"LOCKBOX BANK" shall have the meaning set forth on Schedule 1, attached hereto.

"LOCKOUT PERIOD" shall mean the period commencing on the date hereof and ending on the date which is three (3) months prior to the Maturity Date.

"LOSSES" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to reasonable legal fees and other costs of defense).

"MAJOR LEASE" shall mean as to the Property (i) any Lease (other than a mobile home or recreational vehicle pad lease) which, individually or when aggregated with all other leases at the Property with the same Tenant or its Affiliate, either (A) accounts for five percent (5%) or more of the Property's aggregate Net Operating Income, or (B) demises 5,000 square feet or more of the Property's gross leasable area, (ii) any Lease which provides the Tenant thereunder any option, offer, right of first refusal or other similar entitlement to acquire all or any portion of the Property except to the extent rights of first refusal are provided to (A) Tenants occupying the Property under pad leases or (B) a homeowner's association, each solely as a result of applicable Legal Requirements, (iii) any commercial Lease or (iv) any instrument guaranteeing or providing credit support for any Lease meeting the requirements of (i), (ii) or (iii) above.

"MANAGEMENT AGREEMENT" shall mean the management agreement entered into by and between Borrower and Manager, pursuant to which Manager is to provide management and other services with respect to the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified in accordance with the terms of this Agreement.

"MANAGER" shall mean (i) MHCOP, (ii) MHC, (iii) any entity under the Control of either MHCOP or MHC or (iv) such other entity selected as the manager of the Property in accordance with the terms of this Agreement.

"MATURITY DATE" shall have the meaning set forth on Schedule 1, attached hereto.

"MAXIMUM LEGAL RATE" shall mean the maximum nonusurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the indebtedness evidenced by the Note and as provided for herein or the other Loan Documents,

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under the laws of such state or states whose laws are held by any court of

competent jurisdiction to govern the interest rate provisions of the Loan.

"MEMBER" shall have the meaning set forth in Section 6.1(c) hereof.

"MHC" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"MHCOP" shall mean MHC Operating Limited Partnership, an Illinois limited partnership.

"MHC SUBSIDIARY" shall have the meaning set forth in Section 7.3 hereof.

"MONTHLY PAYMENT AMOUNT" shall have the meaning set forth in Section 2.2(b) hereof.

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

"MORTGAGE" shall mean that certain first priority mortgage/deed of trust/deed to secure debt and security agreement dated the date hereof, executed and delivered by Borrower as security for the Loan and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NET OPERATING INCOME" shall mean, with respect to any period of time, the amount obtained by subtracting Operating Expenses from Operating Income.

"NET PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

"NET PROCEEDS DEFICIENCY" shall have the meaning set forth in Section 8.4(b) (vi) hereof.

"NOTE" shall mean that certain promissory note of even date herewith in the principal amount set forth on Schedule 1, attached hereto, made by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NOTE RATE" shall have the meaning set forth on Schedule 1, attached hereto.

"OFFERING DOCUMENT Date" shall have the meaning set forth in Section 5.11(c) (i) (D) hereof.

"OPERATING EXPENSES" shall mean, with respect to any period of time, the total of all expenses actually paid or payable, computed in accordance with GAAP, of whatever kind relating to the operation, maintenance and management of the Property, including without limitation, utilities, ordinary repairs and maintenance, Insurance Premiums, license fees, Taxes and Other Charges, advertising expenses, payroll and related taxes, computer processing charges, management fees equal to the greater of 4% of the Operating Income and the management fees actually paid under the Management Agreement, operational equipment or other lease payments, normalized capital expenditures equal to \$50 per pad per annum, but specifically excluding depreciation and amortization, income taxes, Debt Service, any incentive fees due under the

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Management Agreement, any item of expense that in accordance with GAAP should be capitalized, any item of expense that would otherwise be covered by the provisions hereof but which is paid by any Tenant under such Tenant's Lease or other agreement directly to a third party other than Borrower, and deposits into the Reserve Accounts.

"OPERATING INCOME" shall mean, with respect to any period of time, all income, computed in accordance with GAAP, derived from the ownership and operation of the Property from whatever source, including, but not limited to,

Rents (including percentage rents), utility charges, escalations, forfeited security deposits, interest on credit accounts, service fees or charges, license fees, parking fees, rent concessions or credits, and other required pass-throughs but excluding sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any Governmental Authority, refunds and uncollectible accounts, sales of furniture, fixtures and equipment, interest income from any source other than the escrow accounts, Reserve Accounts or other accounts required pursuant to the Loan Documents, Insurance Proceeds (other than business interruption or other loss of income insurance), Awards, unforfeited security deposits, utility and other similar deposits, income from Tenants (under Major Leases) not paying rent, income from tenants (under Major Leases) in bankruptcy, non-recurring or extraordinary income, including, without limitation lease termination payments, and any disbursements to Borrower from the Reserve Funds.

"ORIGINAL BORROWER" shall have the meaning set forth in Section 2.5 hereof.

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

"PARTICIPATIONS" shall have the meaning set forth in Section 13.1 hereof.

"PATRIOT ACT" shall have the meaning set forth in Section 4.40 hereof.

"PERMITTED ENCUMBRANCES" shall mean collectively, (a) the Lien and security interests created by the Loan Documents, (b) all Liens, encumbrances and other matters disclosed in the Title Insurance Policy, (c) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, (d) such other title and survey exceptions as Lender has approved or may approve in writing in Lender's reasonable discretion and (e) utility easements and other easements granted by Borrower in accordance with the terms and conditions set forth herein.

"PERMITTED INVESTMENTS" shall mean to the extent available from Lender or Lender's servicer for deposits in the Reserve Accounts and the Lockbox Account, any one or more of the following obligations or securities acquired at a purchase price of not greater than par, including those issued by a servicer of the Loan, the trustee under any securitization or any of their respective Affiliates, payable on demand or having a maturity date not later than the Business Day immediately prior to the date on which the funds used to acquire such investment are required to be used under this Agreement and meeting one of the appropriate standards set forth below:

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(a) obligations of, or obligations fully guaranteed as to payment of principal and interest by, the United States or any agency or instrumentality thereof provided such obligations are backed by the full faith and credit of the United States of America including, without limitation, obligations of: the U.S. Treasury (all direct or fully guaranteed obligations), the Farmers Home Administration (certificates of beneficial ownership), the General Services Administration (participation certificates), the U.S. Maritime Administration (guaranteed Title XI financing), the Small Business Administration (guaranteed participation certificates and guaranteed pool certificates), the U.S. Department of Housing and Urban Development (local authority bonds) and the Washington Metropolitan Area Transit Authority (guaranteed transit bonds); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) be rated "AAA" or the equivalent by each of the Rating Agencies, (iii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iv) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and

must move proportionately with that index, and (v) such investments must not be subject to liquidation prior to their maturity;

(b) Federal Housing Administration debentures;

(c) obligations of the following United States government sponsored agencies: Federal Home Loan Mortgage Corp. (debt obligations), the Farm Credit System (consolidated systemwide bonds and notes), the Federal Home Loan Banks (consolidated debt obligations), the Federal National Mortgage Association (debt obligations), the Financing Corp. (debt obligations), and the Resolution Funding Corp. (debt obligations); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(d) federal funds, unsecured certificates of deposit, time deposits, bankers' acceptances and repurchase agreements with maturities of not more than 365 days of any bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(e) fully Federal Deposit Insurance Corporation-insured demand and time deposits in, or certificates of deposit of, or bankers' acceptances with maturities of not more than 365 days

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and issued by, any bank or trust company, savings and loan association or savings bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(f) debt obligations with maturities of not more than 365 days and at all times rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest long-term unsecured rating category; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P,

must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(g) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) with maturities of not more than 365 days and that at all times is rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest short-term unsecured debt rating; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(h) units of taxable money market funds or mutual funds, with maturities of not more than 365 days and which funds are regulated investment companies, seek to maintain a constant net asset value per share and invest solely in obligations backed by the full faith and credit of the United States, which funds have the highest rating available from each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) for money market funds or mutual funds; and

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(i) any other security, obligation or investment which has been approved as a Permitted Investment in writing by (i) Lender and (ii) each Rating Agency, as evidenced by a written confirmation that the designation of such security, obligation or investment as a Permitted Investment will not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities by such Rating Agency;

provided, however, that no obligation or security shall be a Permitted Investment if (A) such obligation or security evidences a right to receive only interest payments, (B) the right to receive principal and interest payments on such obligation or security are derived from an underlying investment that provides a yield to maturity in excess of one hundred twenty percent (120%) of the yield to maturity at par of such underlying investment or (C) such obligation or security has a remaining term to maturity in excess of one (1) year.

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

"PERSONAL PROPERTY" shall have the meaning set forth in the granting clause of the Mortgage.

"PHYSICAL CONDITIONS REPORT" shall mean a report prepared by a company satisfactory to Lender regarding the physical condition of the Property, satisfactory in form and substance to Lender in its sole discretion.

"POLICIES" shall have the meaning set forth in Section 8.1 hereof.

"PROHIBITED TRANSFER" shall have the meaning set forth in Section 7.2 hereof.

"PROPERTY" shall mean the parcel of real property, the Improvements thereon and all Personal Property owned by Borrower and encumbered by the Mortgage, together with all rights pertaining to such property and Improvements, as more particularly described in the granting clause of the Mortgage and referred to therein as the "Property".

"PROVIDED INFORMATION" shall have the meaning set forth in Section 13.4(a) hereof.

"QUALIFIED MANAGER" shall mean Manager or a reputable and experienced professional management organization (a) which manages, together with its affiliates, mobile home communities, exclusive of the Property containing, in the aggregate, at least one thousand five hundred (1,500) mobile home pads and/or recreational vehicle pads or (b) (i) approved by Lender, which approval shall not have been unreasonably withheld and (ii) for which Lender shall have received written confirmation from the Rating Agencies that the employment of such manager will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to be assigned in connection with a Securitization. In the event Manager is an Affiliated Manager, Borrower shall deliver to Lender a revised substantive non-consolidation opinion if one was delivered in connection with the closing of the Loan.

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

"REA" shall mean any construction, operation and reciprocal easement agreement or similar agreement (including any separate agreement or other agreement between Borrower and one or more other parties to an REA with respect to such REA) affecting the Property or portion thereof.

"RELEASE" shall have the meaning set forth in Section 12.5 hereof.

"RELEASE PROPERTY" shall have the meaning set forth in Section 2.5 hereof.

"REMIC PROHIBITION PERIOD" shall have the meaning set forth in Section 2.4(b) (iv) hereof.

"REMIC TRUST" shall mean a "real estate mortgage investment conduit" (within the meaning of Section 860D, or applicable successor provisions, of the Code) that holds the Note.

"RENT ROLL" shall have the meaning set forth in Section 4.24 hereof.

"RENTS" shall have the meaning set forth in the Mortgage.

"RENT DIRECTION LETTER" shall have the meaning set forth in Section 10.2(a) hereof.

"REPLACEMENT RESERVE ACCOUNT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE FUNDS" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE MONTHLY DEPOSIT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE PERIOD" shall mean the period commencing on the earlier of the following to occur: (i) the date upon which the Debt Service Coverage Ratio for the Property, as reasonably determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio equals or exceeds 1.15 to 1.00 for the immediately preceding twelve (12) month period or (ii) the existence and continuance of an Event of Default.

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

"REQUIRED REPAIRS" shall have the meaning set forth in Section 9.1(a) hereof.

"REQUIRED WORK" shall have the meaning set forth in Section 9.4 hereof.

"RESERVE ACCOUNTS" shall mean the Tax and Insurance Reserve Account, the Replacement Reserve Account, the Excess Cash Reserve Account, the Terrorism Reserve Account, if applicable, or any other escrow account established by the Loan Documents.

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"RESERVE FUNDS" shall mean the Tax and Insurance Reserve Funds, the Replacement Reserve Funds, the Excess Cash Reserve Funds, the Terrorism Reserve Funds, if applicable, or any other escrow funds established by the Loan Documents.

"RESTORATION" shall mean, following the occurrence of a Casualty or a Condemnation which is of a type necessitating the repair of the Property, the completion of the repair and restoration of the Property as nearly as possible to the condition the Property was in immediately prior to such Casualty or Condemnation, with such alterations as may be reasonably approved by Lender.

"RESTORATION CONSULTANT" shall have the meaning set forth in Section 8.4(b) (iii) hereof.

"RESTORATION RETAINAGE" shall have the meaning set forth in Section 8.4(b) (iv) hereof.

"RESTRICTED PARTY" shall have the meaning set forth in Section 7.1 hereof.

"SALE OR PLEDGE" shall have the meaning set forth in Section 7.1 hereof.

"SCHEDULED PAYMENT DATE" shall have the meaning set forth in Section 2.2(b) hereof.

"SECURITIES" shall have the meaning set forth in Section 13.1 hereof.

"SECURITIES ACT" shall mean the Securities Act of 1933, as amended.

"SECURITIES LIABILITIES" shall have the meaning set forth in Section 13.5 hereof.

"SECURITIZATION" shall have the meaning set forth in Section 13.1 hereof.

"SPECIAL MEMBER" shall have the meaning set forth in Section 6.1(c).

"SPE COMPONENT ENTITY" shall have the meaning set forth in Section 6.1(b) hereof.

"STANDARD STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.



"SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD" shall have the meaning set forth in Schedule 1, attached hereto.

"SUBSTITUTE PROPERTY" shall have the meaning set forth in Section 2.5 hereof.

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

"STATE" shall mean the state in which the Property or any part thereof is located.

"SUCCESSOR BORROWER" shall have the meaning set forth in Section 2.4(b)(iii) hereof.

"TAX AND INSURANCE RESERVE FUNDS" shall have the meaning set forth in Section 9.6 hereof.

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"TAX AND INSURANCE RESERVE ACCOUNT" shall have the meaning set forth in Section 9.6 hereof.

"TAX AND INSURANCE RESERVE PERIOD" shall mean the earlier of the following to occur (i) the period commencing on the date upon which the Debt Service Coverage Ratio for the Property as determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio for the immediately preceding twelve (12) month period equals or exceeds 1.15 to 1.00, (ii) the period during the existence and continuance of an Event of Default or (iii) the period commencing upon Borrower's failure to deliver to Lender evidence of payment of (A) all Taxes and Other Charges in accordance with Section 5.4 hereof or (B) all Insurance Premiums in accordance with Section 8.1 hereof, which evidence shall be reasonably satisfactory to Lender in all respects, and ending upon delivery of such evidence to Lender.

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

"TENANT" shall mean any Person leasing, subleasing or otherwise occupying any portion of the Property under a Lease or other occupancy agreement with Borrower.

"TERMINATION FEE DEPOSIT" shall have the meaning set forth in Section 9.3(b).

"TERRORISM RESERVE ACCOUNT" shall have the meaning set forth in Section 9.8 hereof.

"TERRORISM RESERVE FUNDS" shall have the meaning set forth in Section 9.8 hereof.

"TITLE INSURANCE POLICY" shall mean that certain ALTA mortgagee title insurance policy issued with respect to the Property and insuring the lien of the Mortgage.

"TRANSFeree" shall have the meaning set forth in Section 7.5 hereof.

"TRIBUNAL" shall mean any state, commonwealth, federal, foreign, territorial or other court or governmental department, commission, board, bureau, district, authority, agency, central bank, or instrumentality, or any arbitration authority.

"UCC" or "UNIFORM COMMERCIAL CODE" shall mean the Uniform Commercial Code as in effect in the State where the applicable Property is located.

SECTION 1.2. PRINCIPLES OF CONSTRUCTION.

All references to sections and schedules are to sections and schedules in or to this Agreement unless otherwise specified. All uses of the word "including" shall mean "including, without limitation" unless the context shall indicate otherwise. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined.

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ARTICLE 2  
GENERAL TERMS

SECTION 2.1. LOAN COMMITMENT; DISBURSEMENT TO BORROWER

(a) Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

(b) Borrower may request and receive only one borrowing in respect of the Loan and any amount borrowed and repaid in respect of the Loan may not be reborrowed.

(c) The Loan shall be evidenced by the Note and secured by the Mortgage and the other Loan Documents.

(d) Borrower shall use the proceeds of the Loan to (i) pay certain costs in connection with the financing of the Property, (ii) make deposits into the Reserve Funds on the Closing Date in the amounts provided herein, (iii) pay costs and expenses incurred in connection with the closing of the Loan, as approved by Lender, (iv) fund any working capital requirements of the Property, and (v) distribute the balance, if any, to its partners or members, as applicable.

SECTION 2.2. LOAN PAYMENTS

(a) The Loan shall bear interest at a fixed rate per annum equal to the Note Rate. Interest shall be computed based on the daily rate produced assuming a three hundred sixty (360) day year, multiplied by the actual number of days elapsed. Except as otherwise set forth in this Agreement, interest shall be paid in arrears.

(b) Borrower hereby agrees to pay sums due under the Note as follows: An initial payment of is due on the Closing Date for interest from the Closing Date through and including October 31, 2003. Thereafter, except as may be adjusted in accordance with the last sentence of Section 2.2(c), (1) consecutive monthly installments of interest only in an amount calculated in accordance with Section 2.2(a) above (such amount, the "I/O Monthly Payment Amount") shall be payable on the first day of each month beginning December 1, 2003 (each such date through and including the Maturity Date, a "Scheduled Payment Date") through and including the Scheduled Payment Date occurring in November, 2006 and (2) thereafter, consecutive monthly installments of principal and interest in an amount equal to the sum set forth on Schedule 1, attached hereto, shall be payable pursuant to the terms of Section 2.2(d) (the "Constant Monthly Payment Amount"; the I/O Monthly Payment Amount and the Constant Monthly Payment Amount shall hereinafter be collectively referred to as the "Monthly Payment Amount") on each Scheduled Payment Date until the entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on the Maturity Date.

(c) The Constant Monthly Payment Amount shall mean the amount of interest and principal which would be due in order to fully amortize the principal amount of the Loan over an amortization term of thirty (30) years

assuming an annual interest rate equal to the Note Rate, computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each. Borrower expressly understands and agrees that such computation of interest based on a three hundred sixty (360) day year consisting of twelve (12) months of thirty

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(30) days each is solely for the purpose of determining the Monthly Payment Amount, and, notwithstanding such computation, interest shall accrue on the outstanding principal amount of the Loan as provided in Section 2.2(a) above. Borrower understands and acknowledges that such interest accrual requirement results in more interest accruing on the Loan than if either a thirty (30) day month and a three hundred sixty (360) day year or the actual number of days and a three hundred sixty-five (365) day year were used to compute the accrual of interest on the Loan. Borrower recognizes that such interest accrual requirement will not fully amortize the Loan within the amortization period set forth above. Following any partial prepayment occurring solely as a result of the application of Insurance Proceeds or Awards pursuant to the terms of this Agreement, Lender may, in its sole and absolute discretion, adjust the Monthly Payment Amount to give effect to any such partial prepayment, provided, however, that in no event will any such adjustment result in any such installment becoming due and payable on any date after the Maturity Date.

(d) Each payment by Borrower hereunder or under the Note shall be payable at the payment address set forth on Schedule 1, attached hereto, or at such other place as the Lender may designate from time to time in writing, on the date such payment is due, to Lender by deposit to such account as Lender may designate by written notice to Borrower. Whenever any payment hereunder or under the Note shall be stated to be due on a day which is not a Business Day, such payment shall be made on the first Business Day preceding such scheduled due date.

(e) Prior to the occurrence and following the cure (in accordance with the terms hereof) of an Event of Default, all monthly payments made as scheduled under this Agreement and the Note shall be applied first to the payment of interest computed at the Note Rate, and the balance toward the reduction of the principal amount of the Note. All voluntary and involuntary prepayments on the Note shall be applied, to the extent thereof, to accrued but unpaid interest on the amount prepaid, to the remaining principal amount, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion, including, but not limited to, application to principal installments in inverse order of maturity. Following the occurrence and during the continuance of an Event of Default, any payment made on the Note shall be applied to accrued but unpaid interest, late charges, accrued fees, the unpaid principal amount of the Note, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion.

(f) All payments made by Borrower hereunder or under the Note or the other Loan Documents shall be made irrespective of, and without any deduction for, any setoff, defense or counterclaims.

#### SECTION 2.3. LATE PAYMENT CHARGE

If any principal or interest payment is not paid by Borrower on or before the date which is ten (10) calendar days after the same is due, Borrower shall pay to Lender upon demand an amount equal to the lesser of four percent (4%) of such unpaid sum or the maximum amount permitted by applicable law in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such

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delinquent payment. Any such amount shall be secured by the Mortgage and the

other Loan Documents to the extent permitted by applicable law.

SECTION 2.4. PREPAYMENT; DEFEASANCE

Except as otherwise expressly permitted by this Section 2.4, no voluntary prepayments, whether in whole or in part, of the Loan or any other amount at any time due and owing under the Note can be made by Borrower or any other Person without the express written consent of Lender.

(a) Lockout Period. Borrower has no right to make, and Lender shall have no obligation to accept, any voluntary prepayment, whether in whole or in part, of the Loan during the Lockout Period. Notwithstanding the foregoing, if either (i) Lender, in its sole and absolute discretion, accepts a full or partial voluntary prepayment during the Lockout Period or (ii) there is an involuntary prepayment during the Lockout Period, then, in either case, Borrower shall, in addition to any portion of the Loan prepaid (together with all interest accrued and unpaid thereon), pay to Lender a prepayment premium in an amount calculated in accordance with Section 2.4(d) hereof.

(b) Total Defeasance.

(i) Notwithstanding any provisions of this Section 2.4 to the contrary, including, without limitation, subsection (a) of this Section 2.4, at any time after the earlier to occur of the (1) expiration of the REMIC Prohibition Period or (2) expiration of the Substitution/Defeasance Lockout Period, Borrower may cause the release of the Property from the lien of the Mortgage and the other Loan Documents upon the satisfaction of the following conditions:

(A) no Event of Default shall exist under any of the Loan Documents;

(B) not less than thirty (30) (but not more than ninety (90)) days prior written notice shall be given to Lender specifying a date on which the Defeasance Collateral (as hereinafter defined) is to be delivered (the "RELEASE DATE"), such date being on a Scheduled Payment Date; provided, however, that Borrower shall have the right (i) to cancel such notice by providing Lender with notice of cancellation ten (10) days prior to the scheduled Release Date, or (ii) to extend the scheduled Release Date until the next Scheduled Payment Date; provided that in each case, Borrower shall pay all of Lender's reasonable costs and expenses incurred as a result of such cancellation or extension;

(C) all accrued and unpaid interest and all other sums due under the Note, this Agreement and under the other Loan Documents up to the Release Date, including, without limitation, all reasonable fees, costs and expenses incurred by Lender and its agents in connection with such release (including, without limitation, reasonable legal fees and expenses for the review and preparation of the Defeasance Security Agreement (as hereinafter defined) and of the other materials described in Section 2.4(b)(i)(D) below and any related

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documentation, and any servicing fees, Rating Agency fees or other costs related to such release), shall be paid in full on or prior to the Release Date;

(D) Borrower shall deliver to Lender on or prior to the Release Date:

(1) a pledge and security agreement, in form and substance which would be satisfactory to a prudent institutional mortgage loan

lender, creating a first priority security interest in favor of Lender in the Defeasance Collateral, as defined herein (the "DEFEASANCE SECURITY AGREEMENT"), which shall provide, among other things, that any excess amounts received by Lender from the Defeasance Collateral over the amounts payable by Borrower on a given Scheduled Payment Date, which excess amounts are not required to cover all or any portion of amounts payable on a future Scheduled Payment Date, shall be refunded to Borrower promptly after each such Scheduled Payment Date;

(2) direct non-callable obligations of the United States of America (or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, to the extent the applicable Rating Agencies rating the Securities have confirmed in writing will not cause a downgrade, withdrawal or qualification of the initial, or, if higher, then applicable ratings of the Securities), that provide for payments prior and as close as possible to (but in no event later than) all successive Scheduled Payment Dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding Monthly Payment Amount required to be paid under this Agreement and the Note (including all amounts due on the Maturity Date) for the balance of the term hereof (the "DEFEASANCE COLLATERAL"), each of which shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance which would be satisfactory to a prudent lender (including, without limitation, such certificates, documents and instruments as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the Defeasance Security Agreement the first priority security interest therein in favor of Lender in conformity with all applicable state and federal laws governing granting of such security interests;

(3) a certificate of Borrower certifying that all of the requirements set forth in this Section 2.4(b)(i) have been satisfied;

(4) one or more opinions of counsel for Borrower in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that (i) Lender has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms, (ii) the release of the lien of the Mortgage and the pledge of Defeasance Collateral will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (iii) the defeasance will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost;

(5) a certificate in form and scope which would be acceptable to a prudent lender from an Acceptable Accountant certifying that the Defeasance Collateral will generate

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amounts sufficient to make all payments of principal and interest due under the Note (including the scheduled outstanding principal balance of the Loan due on the Maturity Date); and

(6) such other certificates, documents and instruments as a prudent institutional lender would require; and

(E) in the event the Loan is held by a REMIC Trust, Lender has received written confirmation from any Rating Agency rating any Securities that substitution of the Defeasance Collateral will not result in a downgrade, withdrawal, or qualification of the ratings then assigned to any of the Securities.

(ii) Upon compliance with the requirements of Section 2.4(b)(i), the Property shall be released from the lien of the Mortgage and the other Loan Documents, and the Defeasance Collateral shall

constitute collateral which shall secure the Note and all other obligations under the Loan Documents. Lender will, at Borrower's expense, execute and deliver any agreements reasonably requested by Borrower to release the lien of the Mortgage and the other Loan Documents from the Property.

(iii) Upon the release of the Property in accordance with this Section 2.4(b), Borrower shall (at Lender's sole and absolute discretion) assign all its obligations and rights under the Note, together with the pledged Defeasance Collateral, to a successor entity designated and approved by Lender in its sole and absolute discretion ("SUCCESSOR BORROWER"). Successor Borrower shall execute an assignment and assumption agreement in form and substance which would be satisfactory to a prudent lender pursuant to which it shall assume Borrower's obligations under the Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, Borrower shall (A) deliver to Lender one or more opinions of counsel in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that such assignment and assumption agreement is enforceable against Borrower and the Successor Borrower in accordance with its terms and that the Note, the Defeasance Security Agreement and the other Loan Documents, as so assigned and assumed, are enforceable against the Successor Borrower in accordance with their respective terms, and opining to such other matters relating to Successor Borrower and its organizational structure as Lender may require, and (B) pay all reasonable fees, costs and expenses incurred by Lender or its agents in connection with such assignment and assumption (including, without limitation, legal fees and expenses and for the review of the proposed transferee and the preparation of the assignment and assumption agreement and related certificates, documents and instruments and any fees payable to any Rating Agencies and their counsel in connection with the issuance of the confirmation referred to in subsection (b)(i)(E) above). Upon such assignment and assumption, Borrower shall be relieved of its obligations hereunder, under the Note, under the other Loan Documents and under the Defeasance Security Agreement, except as expressly set forth in the assignment and assumption agreement.

(iv) For purposes of this Section 2.4, "REMIC PROHIBITION PERIOD" means the two-year period commencing with the "startup day" within the meaning of Section 860G(a)(9) of the Code of any REMIC Trust that holds the Note. In no event shall

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Lender have any obligation to notify Borrower that a REMIC Prohibition Period is in effect with respect to the Loan, except that Lender shall notify Borrower if any REMIC Prohibition Period is in effect with respect to the Loan after receiving any notice described in Section 2.4(b)(i)(B); provided, however, that the failure of Lender to so notify Borrower shall not impose any liability on Lender or grant Borrower any right to defease the Loan during any such REMIC Prohibition Period.

(c) Intentionally deleted.

(d) Involuntary Prepayment During the Lockout Period. During the Lockout Period, in the event of any involuntary prepayment of the Loan or any other amount under the Note, whether in whole or in part, in connection with or following Lender's acceleration of the Note or otherwise, and whether the Mortgage is satisfied or released by foreclosure (whether by power of sale or judicial proceeding), deed in lieu of foreclosure or by any other means, including, without limitation, repayment of the Loan by Borrower or any other Person pursuant to any statutory or common law right of redemption, Borrower shall, in addition to any portion of the principal balance of the Loan prepaid (together with all interest accrued and unpaid thereon and in the event the prepayment is made on a date other than a Scheduled Payment Date, a sum equal to

the amount of interest which would have accrued under the Note on the amount of such prepayment if such prepayment had occurred on the next Scheduled Payment Date), pay to Lender a prepayment premium in an amount calculated in accordance with this Section 2.4(d). Such prepayment premium shall be in an amount equal to the greater of:

- (i) 1% of the portion of the Loan being prepaid; or
- (ii) the product obtained by multiplying:
  - (A) the portion of the Loan being prepaid, times;
  - (B) the difference obtained by subtracting (I) the Yield Rate from (II) the Note Rate, times;
  - (C) the present value factor calculated using the following formula:

$$\frac{1-(1+r)^{-n}}{r}$$

r = Yield Rate

n = the number of years and any fraction hereof, remaining between the date the prepayment is made and the Maturity Date of the Note.

As used herein, "YIELD RATE" means the yield per annum calculated by Lender by the linear interpolation of the yield of U.S. Treasury Securities having a maturity date (one longer and one shorter) most nearly approximating the Maturity Date as reported on the fifth Business Day preceding the Prepayment Calculation Date. The "PREPAYMENT CALCULATION DATE" shall mean, as applicable, the date on which (i) Lender applies any partial prepayment to the reduction of the outstanding principal amount of the Note, in the case of a voluntary partial prepayment

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which is accepted by Lender, (ii) Lender accelerates the Loan, in the case of a prepayment resulting from acceleration, or (iii) Lender applies funds held under any Reserve Account, in the case of a prepayment resulting from such an application (other than in connection with acceleration of the Loan).

(e) Insurance and Condemnation Proceeds; Excess Interest. Notwithstanding any other provision herein to the contrary, and provided no Event of Default exists, Borrower shall not be required to pay any prepayment premium in connection with any prepayment occurring solely as a result of (i) the application of Insurance Proceeds or Condemnation Proceeds pursuant to the terms of the Loan Documents, or (ii) the application of any interest in excess of the Maximum Legal Rate.

(f) After the Lockout Period. Commencing on the day after the expiration of the Lockout Period, and upon giving Lender at least thirty (30) days (but not more than ninety (90) days) prior written notice, Borrower may voluntarily prepay (without premium) the Note in whole (but not in part) on a Scheduled Payment Date. Lender shall accept a prepayment pursuant to this Section 2.4(h) on a day other than a Scheduled Payment Date provided that, in addition to payment of the full outstanding principal balance of the Note, Borrower pays to Lender a sum equal to the amount of interest which would have accrued on the Note if such prepayment occurred on the next Scheduled Payment Date (the "INTEREST SHORTFALL").

(g) Limitation on Partial Prepayments. Except as set forth in Section 2.4(e), in no event shall Lender have any obligation to accept a partial

prepayment.

#### SECTION 2.5. SUBSTITUTION OF PROPERTIES

Subject to the terms of this Section 2.5 after the earlier to occur of (1) the expiration of the REMIC Prohibition Period or (2) the Substitution/Defeasance Lockout Period (provided, however, that prior to a Securitization of the Loan, Borrower may obtain a substitution pursuant to this Section 2.5 during the Substitution/Defeasance Lockout Period), Borrower may obtain a release of the Lien of the Mortgage (and the related Loan Documents) encumbering the Property (the "RELEASE PROPERTY") up to one (1) time during the Loan term by substituting therefor another property of like kind and quality, acquired by Borrower or an Affiliate of Borrower (provided, however, if the Substitute Property shall be owned by an Affiliate of Borrower said Affiliate (i) shall assume all the obligations of Borrower under this Agreement, the Note and the other Loan Documents and (ii) shall become a party to the Note and the other Loan Documents and shall be bound by the terms and provisions thereof as if it had executed the Note and the other Loan Documents and shall have the rights and obligations of Borrower thereunder) (individually, a "SUBSTITUTE PROPERTY" and collectively, the "SUBSTITUTE PROPERTIES"), provided that the following conditions precedent are satisfied:

(a) Lender shall have received at least sixty (60) days prior written notice requesting the substitution and identifying the Substitute Property and Release Property.

(b) Lender shall have received (i) a copy of a deed conveying all of Borrower's right, title and interest in and to the Release Property to a Person other than Borrower or Borrower Principal pursuant to an arms length transaction and (ii) a letter from Borrower countersigned by

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a title insurance company acknowledging receipt of such deed and agreeing to record such deed in the real estate records for the county in which the Release Property is located.

(c) Lender shall have received a current Appraisal of the Substitute Property prepared within one hundred eighty (180) days prior to the release and substitution (i) showing an appraised value equal to or greater than the appraised value of the Release Property as of the Closing Date, and (ii) which supports a loan-to-value ratio with respect to the Substitute Property not greater than the lesser of (A) the loan-to-value ratio as of the Closing Date with respect to the Release Property and (B) the loan-to-value ratio with respect to the Release Property immediately prior to the date of the proposed substitution.

(d) Lender shall have received a certificate of Borrower certifying, together with other evidence that would be satisfactory to a prudent institutional mortgage loan lender that, after the substitution of the Substitute Property and the release of the Release Property, (i) the Debt Service Coverage Ratio for the twelve (12) full calendar months immediately preceding the date of the substitution with respect to the Substitute Property after the substitution shall be equal to or greater than (A) Debt Service Coverage Ratio for the Release Property for the twelve (12) full calendar months immediately preceding the Closing Date and (B) Debt Service Coverage Ratio for the Release Property for the twelve (12) full calendar months immediately preceding the substitution.

(e) If the Loan is part of a Securitization, Lender shall have received confirmation in writing from the Rating Agencies to the effect that such release and substitution will not result in a withdrawal, qualification or downgrade of the respective ratings in effect immediately prior to such release and substitution for the Securities issued in connection with the Securitization that are then outstanding. If the Loan is not part of a Securitization, Lender shall have consented in writing to such release and substitution, which consent shall be given in Lender's reasonable discretion applying the requirements of a



prudent institutional mortgage loan lender with respect to real estate collateral of similar size, scope and value of the Substitute Property.

(f) No Event of Default shall have occurred and be continuing. Lender shall have received a certificate from Borrower confirming the foregoing, stating that the representations and warranties of Borrower contained in this Agreement and the other Loan Documents are true and correct in all material respects on and as of the date of the release and substitution with respect to Borrower, the Property and the Substitute Property and containing any other representations and warranties with respect to Borrower, the Property, the Substitute Property or the Loan as Lender and, if the Loan has been securitized, the Rating Agencies may reasonably require, unless such certificate would be inaccurate, such certificate to be in form and substance reasonably satisfactory to a prudent institutional mortgage loan lender and, if the Loan has been securitized, the Rating Agencies.

(g) Borrower shall have executed, acknowledged and delivered to Lender (I) a Mortgage, and two UCC-1 Financing Statements with respect to the Substitute Property, together with a letter from Borrower countersigned by a title insurance company acknowledging receipt of such Mortgage and UCC-1 Financing Statements and agreeing to record or file, as applicable, such Mortgage, and one of the UCC-1 Financing Statements in the real estate records for the county in which the Substitute Property is located and to file one of the UCC-1 Financing

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Statements in the office of the Secretary of State (or other central filing office) of the State in which Borrower is formed, so as to effectively create upon such recording and filing valid and enforceable first priority Lien upon the Substitute Property, in favor of Lender (or such other trustee as may be desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents and (II) an environmental indemnity with respect to the Substitute Property from Borrower and Borrower Principal as set forth in the Loan Agreement. The Mortgage, UCC-1 Financing Statements, and other Loan Documents shall be the same in form and substance as the counterparts of such documents executed and delivered with respect to the related Release Property subject to modifications reflecting only the Substitute Property as the Property and such modifications reflecting the laws of the State in which the Substitute Property is located. The Mortgage encumbering the Substitute Property shall secure all amounts then outstanding under the Note. If the Note is secured by more than one Mortgage, in the event that the jurisdiction in which the Substitute Property is located imposes a mortgage recording, intangibles or similar tax and does not permit the allocation of indebtedness for the purpose of determining the amount of such tax payable, the principal amount secured by such Mortgage shall be equal to one hundred ten percent (110%) of the allocated loan amount for the Substitute Property.

(h) Lender shall have received (A) to the extent available and applicable, any "tie-in" or similar endorsement, together with a "first loss" endorsement, to each Title Insurance Policy insuring the Lien of the existing Mortgage as of the date of the substitution with respect to the Title Insurance Policy insuring the Lien of the Mortgage with respect to the Substitute Property and (B) a Title Insurance Policy (or a marked, signed and redated commitment to issue such Title Insurance Policy) insuring the Lien of the Mortgage encumbering the Substitute Property, issued by the title company that issued the Title Insurance Policies insuring the Lien of the existing Mortgage and dated as of the date of the substitution. The Title Insurance Policy issued with respect to the Substitute Property shall (1) to the extent applicable, provide coverage in the amount of the Loan if the "tie-in" or similar endorsement described above is available or, if such endorsement is not available, in an amount equal to one hundred ten percent (110%) of the original principal balance of the Loan, together with "last dollar endorsement," (2) insure Lender that the relevant Mortgage creates a valid first lien on the Substitute Property encumbered thereby, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified

by the terms of any endorsements), (3) contain such endorsements and affirmative coverages as are then available and are contained in the Title Insurance Policies insuring the Liens of the existing Mortgage, and such other endorsements or affirmative coverage that a prudent institutional mortgage lender would require, and (4) name Lender as the insured. Lender also shall have received copies of paid receipts or other evidence showing that all premiums in respect of such endorsements and Title Insurance Policies have been paid.

(i) Lender shall have received a current Survey for the Substitute Property, certified to the title company and Lender and its successors and assigns, in the same form and having the same content as the certification of the Survey of the Release Property prepared by a professional land surveyor licensed in the State in which the Substitute Property is located in accordance with the 1999 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys. Such Survey shall reflect the same legal description contained in the Title Insurance Policy relating to such Substitute Property and shall include, among other things, a metes and bounds description

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of the real property comprising part of such Substitute Property (unless such real property has been satisfactorily designated by lot number on a recorded plat). The surveyor's seal shall be affixed to each Survey and each Survey shall certify whether or not the surveyed property is located in a "one-hundred-year flood hazard area."

(j) Lender shall have received valid certificates of insurance indicating that the requirements for the policies of insurance required for the Property hereunder have been satisfied with respect to the Substitute Property and evidence of the payment of all Insurance Premiums payable for the existing policy period.

(k) Lender shall have received a Phase I environmental report dated not more than one hundred eighty (180) days prior to the proposed date of substitution and otherwise acceptable to a prudent institutional mortgage loan lender and, if recommended under the Phase I environmental report, a Phase II environmental report that would be acceptable to a prudent institutional mortgage loan lender, which conclude that the Substitute Property does not contain any Hazardous Materials in violation of Environmental Laws and is not subject to any significant risk of contamination from any off site Hazardous Materials.

(l) Borrower shall deliver or cause to be delivered to Lender (A) updates or, if the Substitute Property is to be owned by an Affiliate of Borrower, originals, in either case certified by Borrower or such Affiliate, as applicable, of all organizational documentation related to Borrower or such Affiliate, as applicable, and/or the formation, structure, existence, good standing and/or qualification to do business delivered to Lender on the Closing Date; (B) good standing certificates, certificates of qualification to do business in the jurisdiction in which the Substitute Property is located (if required in such jurisdiction); and (C) resolutions of Borrower of such Affiliate, as applicable, authorizing the substitution and any actions taken in connection with such substitution.

(m) Lender shall have received the following opinions of Borrower's counsel: (A) an opinion or opinions of counsel admitted to practice under the laws of the State in which the Substitute Property is located stating that the Loan Documents delivered with respect to the Substitute Property pursuant to clause (i) above are valid and enforceable in accordance with their terms, subject to the laws applicable to creditors' rights and equitable principles, and that Borrower is qualified to do business and in good standing under the laws of the jurisdiction where the Substitute Property is located or that Borrower is not required by Applicable Law to qualify to do business in such jurisdiction; (B) an opinion of counsel reasonably acceptable to Lender, and, if the Loan has been securitized, the Rating Agencies, stating that the Loan Documents delivered with respect to the Substitute Property pursuant to clause (i) above were, among other things, duly authorized, executed and

delivered by Borrower and that the execution and delivery of such Loan Documents and the performance by Borrower of its obligations thereunder will not cause a breach of, or a default under, any agreement, document or instrument to which Borrower is a party or to which it or its properties are bound; (C) an update of any Insolvency Opinion delivered in connection with the closing of the Loan, indicating that the substitution does not affect the opinions set forth therein; (D) if the Loan is part of a Securitization, an opinion of counsel acceptable to the Rating Agencies that the substitution does not constitute a "significant modification" of the Loan under Section 1001 of the Code or otherwise cause a tax to be imposed on a "prohibited transaction" by any REMIC Trust.

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(n) Borrower shall (i) have paid, (ii) have escrowed with Lender (if then required hereunder) or (iii) be contesting in accordance with the terms hereof, all Basic Carrying Costs relating to the Property and the Substitute Property, including without limitation, (i) accrued but unpaid Insurance Premiums relating to the Property and the Substitute Property, and (ii) currently due and payable Taxes (including any in arrears) relating to the Property and the Substitute Property and (iii) currently due and payable Other Charges relating to the Property and Substitute Property.

(o) Borrower shall have paid or reimbursed Lender for all reasonable costs and expenses incurred by Lender (including, without limitation, reasonable attorneys' fees and disbursements) in connection with the release and substitution and Borrower shall have paid all recording charges, filing fees, taxes or other expenses (including, without limitation, mortgage and intangibles taxes and documentary stamp taxes) payable in connection with the substitution. Borrower shall have paid all costs and expenses of the Rating Agencies incurred in connection with the substitution.

(p) Lender shall have received annual operating statements and occupancy statements for the Substitute Property for the most current completed fiscal year and a current operating statement for the Release Property, each certified by Borrower to Lender as being true and correct in all material respects and a certificate from Borrower certifying that there has been no material adverse change in the financial condition of the Substitute Property since the date of such operating statements.

(q) Borrower shall have delivered to Lender estoppel certificates from each Tenant under a Major Lease, except with respect to commercial Leases under which a Tenant has leased less than 3,000 square feet. All such estoppel certificates shall be in a form that would be satisfactory to a prudent mortgage loan lender and shall indicate that (1) the subject Lease is a valid and binding obligation of the tenant thereunder, (2) to the best of the tenant's knowledge, there are no defaults under such Lease on the part of the landlord or tenant thereunder, (3) the tenant thereunder has no knowledge of any defense or offset to the payment of rent under such Lease, (4) no rent under such Lease has been paid more than one (1) month in advance, (5) the tenant thereunder has no option under such Lease to purchase all or any portion of the Substitute Property, and (6) all tenant improvement work required under such Lease has been substantially completed and the tenant under such Lease is in actual occupancy of its leased premises. If an estoppel certificate indicates that all tenant improvement work required under the subject Lease has not yet been completed, Borrower shall deliver to Lender financial statements indicating that Borrower has adequate funds to pay all costs related to such tenant improvement work as required under such Lease.

(r) Lender shall have received copies of all Leases (except those Leases relating to mobile home or recreational vehicle pads) affecting the Substitute Property, together with a rent roll, certified by Borrower as being true and correct.

(s) Lender shall have received subordination agreements in a form reasonably acceptable to Lender with respect to any Tenants at the Substitute Property having Leases which have been recorded (to the extent such Leases for such tenants are not automatically subordinate (in lien and in terms) pursuant

to the terms of the applicable Leases).

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(t) Lender shall have received (A) an endorsement to the Title Insurance Policy insuring the Lien of the Mortgage encumbering the Substitute Property insuring that the Substitute Property constitutes a separate tax lot or, if such an endorsement is not available in the State in which the Substitute Property is located, a letter from the title insurance company issuing such Title Insurance Policy stating that the Substitute Policy constitutes a separate tax lot or (B) a letter from the appropriate taxing authority stating that the Substitute Property constitutes a separate tax lot.

(u) Lender shall have received a Physical Conditions Report with respect to the Substitute Property stating that the Substitute Property and its use comply in all material respects with all applicable Legal Requirements (including, without limitation, zoning, subdivision and building laws) and that the Substitute Property is in good condition and repair.

(v) Lender shall have received evidence which would be satisfactory to a prudent institutional mortgage loan lender to the effect that all material building and operating licenses and permits necessary for the use and occupancy of the Substitute Property as a mobile home park and/or recreational vehicle resort, as applicable, (and, if applicable, a golf course, together with all other appurtenant uses for which the Substitute Property is used) including, but not limited to, current certificates of occupancy, have been obtained and are in full force and effect.

(w) In the event the Release Property is subject to a Management Agreement along with one or more additional Properties, Lender shall have received a certified copy of an amendment to the Management Agreement reflecting the deletion of the Release Property and the addition of the Substitute Property as a property managed pursuant thereto and Manager shall have executed and delivered to Lender an amendment to the Assignment of Management Agreement reflecting such amendment to the Management Agreement. In the event that the Release Property is subject to a Management Agreement relating only to such Release Property, Lender shall have received a certified copy of a new Management Agreement for the Substitute Property on substantially the same terms as the Management Agreement for the Release Property and the Manager thereunder shall have executed and delivered to Lender an Assignment of Management Agreement with respect to such new Management Agreement on substantially the same terms as used in connection with the Release Property or such other terms as would be acceptable to a prudent institutional mortgage loan lender.

(x) Lender shall have received such other documents and information in connection with the substitution as requested by the Rating Agencies if the Loan is part of a Securitization, or Lender if the Loan is not part of a Securitization.

(y) Lender shall have received copies of all material contracts and agreements (that are not terminable by Borrower upon thirty (30) days' notice) relating to the leasing and operation of the Substitute Property (other than the Management Agreement), each of which shall be in a form and substance which would be satisfactory to a prudent institutional mortgage loan lender together with a certification of Borrower attached to each such contract or agreement certifying that the attached copy is a true and correct copy of such contract or agreement and all amendments thereto.

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(z) Lender shall have received certified copies of all material consents, licenses and approvals, if any, required in connection with the substitution of a Substitute Property, and evidence that such consents, licenses and approvals are in full force and effect.

(aa) Lender shall have received satisfactory (i.e., showing no

Liens other than Permitted Encumbrances) UCC searches, together with tax lien, judgment and litigation searches with respect to the Substitute Property and Borrower in the State where the Substitute Property is located and the jurisdictions where each such Person has its principal place of business.

(bb) If Borrower owns a leasehold estate in the Substitute Property, Lender shall have received, (i) a certified copy of the Ground Lease for the Substitute Property, together with all amendments and modifications thereto and a recorded memorandum thereof, which Ground Lease would be reasonably satisfactory in all respects to a prudent institutional mortgage loan lender and which contains customary leasehold mortgage provisions and protections, and which shall provide, among other things, (A) for a remaining term of no less than the greater of (1) 20 years from the Maturity Date or (2) 10 years from the end of the scheduled amortization term of the Loan, (B) that the Ground Lease shall not be terminated until Lender has received notice of a default thereunder and has had a reasonable opportunity to cure or complete foreclosure, and fails to do so in a diligent manner, (C) for a new lease on the same terms to Lender as tenant if the Ground Lease is terminated for any reason, (D) the non-merger of fee and leasehold interests, and (E) that insurance proceeds and condemnation awards (from the fee interest as well as the leasehold interest) will be applied pursuant to the terms of this Agreement, and (ii) a ground lease estoppel executed by the fee owner and ground lessor of the Substitute Property, reasonably acceptable to a prudent institutional mortgage loan lender.

(cc) Borrower shall submit to Lender, not less than twenty (20) Business Days prior to the date of such substitution, a release of Lien (and related Loan Documents) for the Release Property for execution by Lender. Such release shall be in a form appropriate for the jurisdiction in which the Release Property is located and shall contain standard provisions, if any, protecting the rights of the releasing lender;

(dd) In the event the Release Property is a mobile home park, no portion of the Substitute Property shall be used as a recreational vehicle park;

(ee) Borrower shall deliver an Officers Certificate certifying that the requirements set forth in this Section 2.5 have been satisfied; and

(ff) the entity that is Borrower under the Loan is either (i) the entity that was Borrower under the Loan as of the Closing Date (the "ORIGINAL BORROWER") or (ii) an entity Controlled by Borrower Principal and in which Borrower Principal owns directly or indirectly, at least a 51% interest (a "BORROWER PRINCIPAL AFFILIATE").

Upon the satisfaction of the foregoing conditions precedent, Lender will release its Lien from the Release Property and the Substitute Property shall be deemed to be the Property for purposes of this Agreement.

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#### SECTION 2.6. PAYMENTS AFTER DEFAULT

Upon the occurrence and during the continuance of an Event of Default, interest on the outstanding principal balance of the Loan and, to the extent permitted by law, overdue interest and other amounts due in respect of the Loan, (a) shall accrue at the Default Rate, and (b) Lender shall be entitled to receive and Borrower shall pay to Lender all cash flow from the Property in accordance with the terms of Article X hereof, such amount to be applied by Lender to the payment of the Debt in such order as Lender shall determine in its sole discretion, including, without limitation, alternating applications thereof between interest and principal. Interest at the Default Rate shall be computed from the occurrence of the Event of Default until the earlier of (i) the actual receipt and collection of the Debt (or that portion thereof that is then due) and (ii) the cure of such Event of Default. To the extent permitted by applicable law, interest at the Default Rate shall be added to the Debt, shall itself accrue interest at the same rate as the Loan and shall be secured by the Mortgage. This paragraph shall not be construed as an agreement or privilege to

extend the date of the payment of the Debt, nor as a waiver of any other right or remedy accruing to Lender by reason of the occurrence of any Event of Default; the acceptance of any payment from Borrower shall not be deemed to cure or constitute a waiver of any Event of Default; and Lender retains its rights under this Agreement to accelerate and to continue to demand payment of the Debt upon the happening of and during the continuance any Event of Default, despite any payment by Borrower to Lender.

#### SECTION 2.7. USURY SAVINGS

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

#### ARTICLE 3 CONDITIONS PRECEDENT

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

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#### SECTION 3.1. REPRESENTATIONS AND WARRANTIES; COMPLIANCE WITH CONDITIONS

The representations and warranties of Borrower contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of such date, and Lender shall have determined that no Default or an Event of Default shall have occurred and be continuing nor will any Default or Event of Default occur immediately following the Closing Date; and Borrower shall be in compliance in all material respects with all terms and conditions set forth in this Agreement and in each other Loan Document on its part to be observed or performed.

#### SECTION 3.2. DELIVERY OF LOAN DOCUMENTS; TITLE INSURANCE; REPORTS; LEASES

(a) Mortgage, Loan Agreement and Note. Lender shall have received from Borrower a fully executed and acknowledged counterpart of the Mortgage and evidence that counterparts of the Mortgage and Uniform Commercial Code financing statements have been delivered to the title company for recording, in the reasonable judgment of Lender, so as to effectively create upon such recording valid and enforceable Liens upon the Property, of the requisite priority, in favor of Lender (or such other trustee as may be required or desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents. Lender shall have also received from Borrower fully executed counterparts of the Environmental Indemnity (if applicable), this Agreement, the Note and Assignment of Management Agreement and all other Loan Documents.

(b) Title Insurance. Lender shall have received a Title Insurance Policy issued by a title company acceptable to Lender and dated as of the

Closing Date. Such Title Insurance Policy shall (i) provide coverage in the amount of the Loan, (ii) insure Lender that the Mortgage creates a valid lien on the Property of the requisite priority, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified by the terms of any endorsements), (iii) contain such endorsements and affirmative coverages as Lender may reasonably request, and (iv) name Lender as the insured. The Title Insurance Policy shall be assignable. Lender also shall have received evidence that all premiums in respect of such Title Insurance Policy have been paid.

(c) Survey. Lender shall have received a current title survey for the Property, certified to the title company and Lender and their successors and assigns, in form and content satisfactory to Lender and prepared by a professional and properly licensed land surveyor satisfactory to Lender in accordance with the 1999 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys. The survey shall meet the classification of an "Urban Survey" and the following additional items from the list of "Optional Survey Responsibilities and Specifications" (Table A) should be added to each survey: 2, 3, 4, 6, 8, 9, 10 and 11(a) (excluding individual manufactured home pads and individual parking spaces provided the applicable surveyor certifies that the same do not violate any boundaries, setbacks or easements). Such survey shall reflect the same legal description contained in the Title Insurance Policy referred to in subsection (b) above and shall include, among other things, a metes and bounds or recorded plat description of the real property comprising part of the Property reasonably satisfactory to Lender. The surveyor's seal shall be affixed to the survey and the surveyor shall provide a certification for each survey in form and substance acceptable to Lender.

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(d) Insurance. Lender shall have (i) had an opportunity to have its insurance representative review copies of the Policies required hereunder, (ii) received certificates with respect to the Policies and (iii) received evidence of the payment of all Insurance Premiums payable for the existing policy period all of which shall be satisfactory to Lender in its sole discretion. In no event shall Borrower be required to provide terrorism insurance.

(e) Environmental Reports. Lender shall have received an Environmental Report in respect of the Property satisfactory to Lender.

(f) Zoning/Building Code. Lender shall have received evidence of compliance with zoning and building ordinances and codes, including, without limitation, required certificates of occupancy for any permanent structure, reasonably acceptable to Lender.

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

(h) Lien Searches. Lender shall have received certified search results pertaining to Borrower, Borrower Principal and such other Persons or any SPE Component Entity as reasonably required by Lender for state and federal tax liens, bankruptcy, judgment, litigation and state and local UCC filings

### SECTION 3.3. RELATED DOCUMENTS

Each additional document not specifically referenced herein, but relating to the transactions contemplated herein, shall have been duly authorized, executed and delivered by all parties thereto and at Lender's written request, Lender shall have received and approved certified copies thereof.

### SECTION 3.4. ORGANIZATIONAL DOCUMENTS

On or before the Closing Date, Borrower shall deliver or cause to be delivered to Lender (a) copies certified by Borrower of all organizational documentation related to Borrower, each SPE Component Entity and Borrower Principal which must be acceptable to Lender in its reasonable discretion, and (b) such other evidence of the formation, structure, existence, good standing and/or qualification to do business of Borrower, each SPE Component Entity and Borrower Principal, as Lender may request in its reasonable discretion, including, without limitation, good standing or existence certificates, qualifications to do business in the appropriate jurisdictions, resolutions authorizing the entering into of the Loan and incumbency certificates as may be requested by Lender.

#### SECTION 3.5. OPINIONS OF BORROWER'S COUNSEL

Lender shall have received opinions of Borrower's counsel (a) with respect to non-consolidation issues (if the amount of the Loan equals or exceeds \$20,000,000) and (b) with respect to due execution, authority, enforceability of the Loan Documents and such other matters

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as Lender may require, all such opinions in form, scope and substance satisfactory to Lender and Lender's counsel in their sole discretion.

#### SECTION 3.6. ANNUAL BUDGET

Borrower shall have delivered to Lender an annual budget for the current fiscal year.

#### SECTION 3.7. TAXES AND OTHER CHARGES

Borrower shall have paid all Taxes and Other Charges (including any in arrears) relating to the Property, which amounts may be funded with proceeds of the Loan.

#### SECTION 3.8. COMPLETION OF PROCEEDINGS

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

#### SECTION 3.9. PAYMENTS

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

#### SECTION 3.10. TRANSACTION COSTS

Except as otherwise expressly provided herein, Borrower shall have paid or reimbursed Lender for all reasonable out of pocket expenses in connection with the underwriting, negotiation, and closing of the Loan, including title insurance premiums and other title company charges; recording, registration, filing and similar fees, taxes and charges; transfer, mortgage, deed, stamp or documentary taxes or similar fees or charges; costs of third-party reports, including without limitation, environmental studies, credit reports, seismic reports, engineer's reports, appraisals and surveys; underwriting and origination expenses; and all actual, reasonable legal fees and expenses charged by counsel to Lender.

#### SECTION 3.11. NO MATERIAL ADVERSE CHANGE

There shall have been no material adverse change in the financial condition or business condition of the Property, Borrower, Borrower Principal, any SPE Component Entity or Manager since the date of the most recent financial



statements and/or other information delivered to Lender. The income and expenses of the Property, the occupancy and leases thereof, and all other features of the transaction shall be as represented to Lender without material adverse change. Neither Borrower nor Borrower Principal, any SPE Component Entity or Affiliated Manager shall be the subject of any bankruptcy, reorganization, or insolvency proceeding.

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SECTION 3.12. LEASES AND RENT ROLL

Lender shall have received copies of all Major Leases affecting the Property, which shall be satisfactory in form and substance to Lender. Lender shall have received a current certified rent roll of the Property, reasonably satisfactory in form and substance to Lender.

SECTION 3.13. INTENTIONALLY DELETED.

SECTION 3.14. INTENTIONALLY DELETED.

SECTION 3.15. INTENTIONALLY DELETED.

SECTION 3.16. TAX LOT

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

SECTION 3.17. PHYSICAL CONDITIONS REPORT

Lender shall have received a Physical Conditions Report with respect to the Property, which report shall be reasonably satisfactory in form and substance to Lender.

SECTION 3.18. MANAGEMENT AGREEMENT

Lender shall have received a certified copy of the Management Agreement with respect to the Property which shall be satisfactory in form and substance to Lender.

SECTION 3.19. APPRAISAL

Lender shall have received an appraisal of the Property, which shall be satisfactory in form and substance to Lender.

SECTION 3.20. FINANCIAL STATEMENTS

Lender shall have received financial statements and related information in form and substance satisfactory to Lender and in compliance with any Legal Requirements promulgated by the Securities and Exchange Commission, including, without limitation, a balance sheet, income and expense statement and statement of cash flows with respect to MHC (on a consolidated basis with MHCOP) and an operating statement with respect to the Property for the year-to-date 2003, 2002, 2001, 2000 and 1999.

SECTION 3.21. INTENTIONALLY DELETED

SECTION 3.22. FURTHER DOCUMENTS

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

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ARTICLE 4  
REPRESENTATIONS AND WARRANTIES

Borrower and, with respect to Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31, 4.39, and 4.40, each Borrower Principal represents and warrants to Lender as of the Closing Date that:

SECTION 4.1. ORGANIZATION

Borrower and each Borrower Principal (when not an individual) (a) has been duly organized and is validly existing and in good standing with requisite power and authority to own its properties and to transact the businesses in which it is now engaged, (b) is duly qualified to do business and is in good standing in each jurisdiction where it is required to be so qualified in connection with its properties, businesses and operations, (c) to the best of Borrower's knowledge, possesses all material rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to own its properties and to transact the businesses in which it is now engaged, and the sole business of Borrower is the ownership, management and operation of the Property, and (d) in the case of Borrower, has full power, authority and legal right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to the terms of the Loan Documents, and in the case of Borrower and each Borrower Principal, has full power, authority and legal right to keep and observe all of the terms of the Loan Documents to which it is a party. Borrower and each Borrower Principal represent and warrant that the chart attached hereto as Exhibit B sets forth an accurate listing of the direct and indirect owners of the equity interests in Borrower and each SPE Component Entity (if any).

SECTION 4.2. STATUS OF BORROWER

Borrower's exact legal name is correctly set forth on the first page of this Agreement, on the Mortgage and on any UCC-1 Financing Statements filed in connection with the Loan. Borrower is an organization of the type specified on the first page of this Agreement. Borrower is incorporated in or organized under the laws of the state of Delaware. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of Borrower) the address of Borrower set forth on the first page of this Agreement. Borrower's organizational identification number, if any, assigned by the state of incorporation or organization is set forth on Schedule 1, attached hereto.

SECTION 4.3. VALIDITY OF DOCUMENTS

Borrower and each Borrower Principal have taken all necessary action to authorize the execution, delivery and performance of this Agreement and the other Loan Documents to which they are parties. This Agreement and such other Loan Documents have been duly executed and delivered by or on behalf of Borrower and each Borrower Principal and constitute the legal, valid and binding obligations of Borrower and each Borrower Principal enforceable against Borrower and each Borrower Principal in accordance with their respective terms, subject only to applicable

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bankruptcy, insolvency and similar laws affecting rights of creditors generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

SECTION 4.4. NO CONFLICTS

The execution, delivery and performance of this Agreement and the other Loan Documents by Borrower and each Borrower Principal will not conflict with or

result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance (other than pursuant to the Loan Documents) upon any of the property or assets of Borrower or any Borrower Principal pursuant to the terms of any agreement or instrument to which Borrower or any Borrower Principal is a party or by which any of Borrower's or Borrower Principal's property or assets is subject, nor to the best of Borrower's knowledge will such action result in any violation of the provisions of any statute or any order, rule or regulation of any Governmental Authority having jurisdiction over Borrower or any Borrower Principal or any of Borrower's or Borrower Principal's properties or assets, and any consent, approval, authorization, order, registration or qualification of or with any Governmental Authority required for the execution, delivery and performance by Borrower or Borrower Principal of this Agreement or any of the other Loan Documents has been obtained and is in full force and effect.

#### SECTION 4.5. LITIGATION

There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other agency now pending or, to Borrower's or Borrower Principal's knowledge, threatened against or affecting Borrower, any Borrower Principal, Manager or the Property, which actions, suits or proceedings, if determined against Borrower, any Borrower Principal, Manager or the Property, would materially adversely affect the condition (financial or otherwise) or business of Borrower or any Borrower Principal or the condition or ownership of the Property other than as disclosed in Schedule 4.5 attached hereto.

#### SECTION 4.6. AGREEMENTS

Borrower is not a party to any agreement or instrument or subject to any restriction which would materially and adversely affect Borrower or the Property, or Borrower's business, properties or assets, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party or by which Borrower or the Property is bound. Borrower has no material financial obligation under any agreement or instrument to which Borrower is a party or by which Borrower or the Property is otherwise bound, other than (a) obligations incurred in the ordinary course of the operation of the Property and (b) obligations under the Loan Documents.

#### SECTION 4.7. SOLVENCY

Borrower and each Borrower Principal have (a) not entered into the transaction or executed the Note, this Agreement or any other Loan Documents with the actual intent to hinder, delay or defraud any creditor and (b) received reasonably equivalent value in exchange for their

obligations under such Loan Documents. Giving effect to the Loan, the fair saleable value of the assets of Borrower and each Borrower Principal exceeds and will, immediately following the making of the Loan, exceed the total liabilities of Borrower and each Borrower Principal, including, without limitation, subordinated, unliquidated, disputed and contingent liabilities. No petition in bankruptcy has been filed against Borrower, any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years, and neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years has made an assignment for the benefit of creditors or taken advantage of any Creditors Rights Laws. Neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager is contemplating either the filing of a petition by it under any Creditors Rights Laws or the liquidation of all or a major portion of Borrower's assets or property, and Borrower has no knowledge of any Person contemplating the filing of any such petition against Borrower or any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager.

#### SECTION 4.8. FULL AND ACCURATE DISCLOSURE

To the best of Borrower's knowledge, no statement of fact made by or on behalf of Borrower or any Borrower Principal in this Agreement or in any of the other Loan Documents or in any other document or certificate delivered by or on behalf of Borrower or any Borrower Principal contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no material fact presently known to Borrower or any Borrower Principal which has not been disclosed to Lender which materially and adversely affects, nor as far as Borrower or any Borrower Principal can reasonably foresee, might materially and adversely affect, the Property or the business, operations or condition (financial or otherwise) of Borrower or any Borrower Principal.

#### SECTION 4.9. NO PLAN ASSETS

Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101. In addition, (a) Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (b) transactions by or with Borrower are not subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans similar to the provisions of Section 406 of ERISA or Section 4975 of the Internal Revenue Code currently in effect, which prohibit or otherwise restrict the transactions contemplated by this Agreement.

#### SECTION 4.10. NOT A FOREIGN PERSON

Neither Borrower nor Borrower Principal is a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code.

#### SECTION 4.11. ENFORCEABILITY

The Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense by Borrower, including the defense of usury, nor would the operation of any of the terms of the Loan Documents, or the exercise of any right thereunder, render the Loan Documents

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unenforceable, and neither Borrower nor Borrower Principal has asserted any right of rescission, set-off, counterclaim or defense with respect thereto. No Default or Event of Default exists under or with respect to any Loan Document.

#### SECTION 4.12. BUSINESS PURPOSES

The Loan is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

#### SECTION 4.13. COMPLIANCE

To the best of Borrower's knowledge, Borrower and the Property, and the use and operation thereof, comply in all material respects with all Legal Requirements, including, without limitation, building and zoning ordinances and codes and the Americans with Disabilities Act except as expressly disclosed in any written materials furnished by Borrower to Lender or as expressly disclosed in any physical condition report or environmental report received by Lender in connection with the closing of the Loan. To Borrower's knowledge, Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority and Borrower has received no written notice of any such default or violation which if determined against Borrower or the Property would materially adversely affect Borrower or the Property. There has not been committed by Borrower or, to Borrower's knowledge, any other Person in occupancy of or involved with the operation or use of the Property any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's

obligations under any of the Loan Documents.

#### SECTION 4.14. FINANCIAL INFORMATION

All financial data, including, without limitation, the balance sheets, statements of cash flow, statements of income and operating expense and rent rolls, that have been delivered to Lender in respect of Borrower, any Borrower Principal and/or the Property (a) are true, complete and correct in all material respects, (b) accurately represent the financial condition of Borrower, Borrower Principal or the Property, as applicable, as of the date of such reports, and (c) to the extent prepared or audited by an independent certified public accounting firm, have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein. To Borrower's actual knowledge after due inquiry, Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and reasonably likely to have a material adverse effect on the Property or the current and/or intended operation thereof, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower or Borrower Principal from that set forth in said financial statements.

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#### SECTION 4.15. CONDEMNATION

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

#### SECTION 4.16. UTILITIES AND PUBLIC ACCESS; PARKING

The Property (i) has adequate rights of access to public ways directly, or indirectly, pursuant to private easements which have been adequately insured under the Title Insurance Policy and (ii) is served by water, sewer, sanitary sewer and storm drain facilities which, to the best of Borrower's knowledge, are adequate to service the Property for full utilization of the Property for its intended uses. All public utilities necessary to the full use and enjoyment of the Property as currently used and enjoyed are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded easements serving the Property and such easements are set forth in and insured by the Title Insurance Policy. All roads necessary for the use of the Property for its current purposes have been completed and dedicated to public use and accepted by all Governmental Authorities. The Property has, or is served by, parking to the extent required to comply with all Legal Requirements in all material respects.

#### SECTION 4.17. SEPARATE LOTS

The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof.

#### SECTION 4.18. ASSESSMENTS

To Borrower's knowledge after due inquiry, there are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, nor are there any contemplated improvements to the Property that may result in such special or other assessments.

#### SECTION 4.19. INSURANCE

Borrower has obtained and has delivered to Lender certified copies of

all Policies or, to the extent such Policies are not available as of the Closing Date, certificates of insurance with respect to all such Policies reflecting the insurance coverages, amounts and other requirements set forth in this Agreement. No claims have been made under any of the Policies, and to Borrower's knowledge, no Person, including Borrower, has done, by act or omission, anything which would impair the coverage of any of the Policies.

#### SECTION 4.20. USE OF PROPERTY

The Property is used exclusively for mobile home community and/or recreational vehicle resort purposes, as applicable, and other appurtenant and related uses.

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#### SECTION 4.21. CERTIFICATE OF OCCUPANCY; LICENSES

All material certifications, permits, licenses and approvals, including, without limitation, certificates of completion or occupancy and any applicable liquor license required for the legal use, occupancy and operation of the Property for the purpose intended herein, have been obtained and are valid and in full force and effect. Borrower shall keep and maintain all licenses necessary for the operation of the Property for the purpose intended herein. The use being made of the Property is in conformity with any certificates of occupancy and any permits or licenses issued for the Property. The Property contains all equipment necessary to use and operate the Property as a mobile home community and/or recreational vehicle resort, as applicable.

#### SECTION 4.22. FLOOD ZONE

None of the Improvements on the Property are located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards, or, if any portion of the Improvements is located within such area, Borrower has obtained the insurance prescribed in Section 8.1(a)(i).

#### SECTION 4.23. PHYSICAL CONDITION

To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report delivered to Lender in connection with the closing of the Loan, the Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems (including, but not limited to, liquid and solid waste disposal, septic and sewer systems), HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects. To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report delivered to Lender in connection with the closing of the Loan, there exists no structural or other material defects or damages in the Property, as a result of a Casualty or otherwise, and whether latent or otherwise. Borrower has not received notice from any insurance company or bonding company of any defects or inadequacies in the Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

#### SECTION 4.24. BOUNDARIES

(a) Except as disclosed in the Survey of the Property delivered to Lender in connection with the closing of the Loan and for which adequate insurance has been obtained under the Title Insurance Policy, none of the Improvements which were included in determining the appraised value of the Property lie outside the boundaries and building restriction lines of the Property to any material extent, and (b) no improvements on adjoining properties encroach upon the Property and no easements or other encumbrances upon the Property encroach upon any of the Improvements so as to materially affect the value or marketability of the Property and for which title endorsements that are

reasonably acceptable to Lender have not been obtained.

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#### SECTION 4.25. LEASES AND RENT ROLL

Borrower has delivered to Lender a true, correct and complete rent roll for the Property (a "RENT ROLL") which includes all Leases affecting the Property and contains an aging report setting forth past due amounts with respect to the Tenants; provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort, written Leases are not used in the ordinary course of the Property's operation. Except as set forth in the Rent Roll (as same has been updated by written notice thereof to Lender): (a) each Lease is in full force and effect; (b) the premises demised under any Major Leases have been completed and the Tenants under the Leases have accepted possession of and are in occupancy of all of their respective demised premises; (c) the Tenants under any Major Leases have commenced the payment of rent under the Leases, there are no offsets, claims or defenses to the enforcement thereof, and Borrower has no monetary obligations to any Tenant under any such Leases; (d) all Rents due and payable under any Major Leases have been paid and no portion thereof has been paid for any period more than thirty (30) days in advance; (e) the rent payable under each Lease is the amount of fixed rent set forth in the Rent Roll, and there is no claim or basis for a claim by the Tenant thereunder for an offset or adjustment to the rent; (f) (1) no Tenant has made any written claim of a material default against the landlord under any Major Lease which remains outstanding nor has Borrower or Manager received, by telephonic, in-person, e-mail or other communication, any notice of a material default under any Lease and (2) no more than five percent (5%) of Tenants under pad leases have made any written claims of material defaults from against the landlord which remain outstanding nor has Borrower or Manager received any written notice of material defaults from greater than five percent (5%) of the Tenants under such Leases; (g) to Borrower's knowledge there is no present material default by a Tenant under any Major Lease; (h) all security deposits under the Leases have been collected by Borrower; (i) Borrower is the sole owner of the entire landlord's interest in each Lease; (j) each Lease is the valid, binding and enforceable obligation of Borrower and the applicable Tenant thereunder and there are no agreements with the Tenants under any Major Leases other than as expressly set forth in the Leases; (k) no Person has any possessory interest in, or right to occupy, the Property or any portion thereof except under the terms of a Lease (or as otherwise provided for under applicable law); provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort (and for so long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan), written Leases are not used in the ordinary course of the Property's operation; (l) none of the Leases contains any option or offer to purchase or right of first refusal to purchase the Property or any part thereof, except to the extent such rights of first refusal are provided to Tenants (occupying the Property under pad Leases) or a homeowner's association, solely as the result of applicable Legal Requirements; (m) neither the Leases nor the Rents have been assigned, pledged or hypothecated except to Lender, and no other Person has any interest therein except the Tenants thereunder; and (n) no conditions exist which now give any Tenant or party the right to "go dark" pursuant to the provision of any Major Lease and/or the any REA. In the event there are any Leases affecting the Property relating to laundry facilities (each, a "LAUNDRY LEASE"), none of any such Laundry Leases (A) provides that the Tenant under such Laundry Lease shall be entitled to any proceeds payable in connection with a Casualty of Condemnation, (B) contains any option or offer to purchase or right of first refusal or right of first offer to purchase the Property or any part thereof, (C) comprises a material portion of the Property or (D) imposes any material obligations upon Borrower.

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#### SECTION 4.26. FILING AND RECORDING TAXES

All mortgage, mortgage recording, stamp, intangible or other similar

tax required to be paid by any Person under applicable Legal Requirements currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, the Mortgage, have been paid or will be paid, and, under current Legal Requirements, the Mortgage is enforceable in accordance with its terms by Lender (or any subsequent holder thereof).

#### SECTION 4.27. MANAGEMENT AGREEMENT

The Management Agreement is in full force and effect and there is no default thereunder by any party thereto and, to Borrower's knowledge, no event has occurred that, with the passage of time and/or the giving of notice would constitute a default thereunder. No management fees under the Management Agreement are accrued and unpaid.

#### SECTION 4.28. ILLEGAL ACTIVITY

No portion of the Property has been or will be purchased with proceeds of any illegal activity, and no part of the proceeds of the Loan will be used in connection with any illegal activity.

#### SECTION 4.29. CONSTRUCTION EXPENSES

All costs and expenses of any and all labor, materials, supplies and equipment used in the construction maintenance or repair of the Improvements have been paid in full or to the extent any such costs and expenses have resulted in a Lien against the Property, the Title Insurance Policy provides Lender satisfactory affirmative insurance with respect to such Lien. To Borrower's knowledge after due inquiry, there are no claims for payment for work, labor or materials affecting the Property which are or may become a lien prior to, or of equal priority with, the Liens created by the Loan Documents.

#### SECTION 4.30. PERSONAL PROPERTY

Borrower has paid in full for, and is the owner of, all Personal Property (other than tenants' property) used in connection with the operation of the Property, free and clear of any and all security interests, liens or encumbrances, except for Permitted Encumbrances and the Lien and security interest created by the Loan Documents.

#### SECTION 4.31. TAXES

Borrower and Borrower Principal have filed all federal, state, county, municipal, and city income, personal property and other tax returns required to have been filed by them and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Borrower nor Borrower Principal knows of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

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#### SECTION 4.32. PERMITTED ENCUMBRANCES

None of the Permitted Encumbrances, individually or in the aggregate, materially interferes with the benefits of the security intended to be provided by the Loan Documents, materially and adversely affects the value of the Property, impairs the use or the operation of the Property or impairs Borrower's ability to pay its obligations in a timely manner.

#### SECTION 4.33. FEDERAL RESERVE REGULATIONS

Borrower will use the proceeds of the Loan for the purposes set forth in Section 2.1(d) hereof and not for any illegal activity. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent



with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Legal Requirements or prohibited by the terms and conditions of this Agreement or the other Loan Documents.

#### SECTION 4.34. INVESTMENT COMPANY ACT

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

#### SECTION 4.35. RECIPROCAL EASEMENT AGREEMENTS

(a) Neither Borrower, nor any other party is currently in default (nor has any notice been given or received with respect to an alleged or current default) under any of the terms and conditions of any REA, and any such REA remains unmodified and in full force and effect;

(b) All easements granted pursuant to any REA which were to have survived the site preparation and completion of construction (to the extent that the same has been completed), remain in full force and effect and have not been released, terminated, extinguished or discharged by agreement or otherwise;

(c) All sums due and owing by Borrower to the other parties to any REA (or by the other parties to any such REA to Borrower) pursuant to the terms of any such REA, including without limitation, all sums, charges, fees, assessments, costs, and expenses in connection with any taxes, site preparation and construction, non-shareholder contributions, and common area and other property management activities have been paid, are current, and no lien has attached on the Property (or threat thereof been made) for failure to pay any of the foregoing;

(d) The terms, conditions, covenants, uses and restrictions contained in any REA do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk placement, tenant

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restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions; and

(e) The terms, conditions, covenants, uses and restrictions contained in each Lease do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any REA, any other Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk placement, tenant restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions.

#### SECTION 4.36. NO CHANGE IN FACTS OR CIRCUMSTANCES; DISCLOSURE

All information submitted by Borrower or its agents to Lender and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the Loan or in satisfaction of the terms thereof and all statements of fact made by Borrower in this Agreement or in any other Loan Document, are accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that otherwise materially and adversely affects or, to the best of Borrower's knowledge, could reasonably be expected to materially and adversely affect the Property or the business operations or the financial condition of Borrower. To the best of Borrower's

knowledge, Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading.

#### SECTION 4.37. INTELLECTUAL PROPERTY

All trademarks, trade names and service marks necessary to the business of Borrower as presently conducted or as Borrower contemplates conducting its business are in good standing and, to the extent of Borrower's actual knowledge, uncontested. Borrower has not infringed, is not infringing, and has not received notice of infringement with respect to asserted trademarks, trade names and service marks of others. To Borrower's knowledge, there is no infringement by others of trademarks, trade names and service marks of Borrower.

#### SECTION 4.38. SURVEY

The Survey for the Property delivered to Lender in connection with this Agreement has been prepared in accordance with the provisions of Section 3.2(c) hereof, and to the actual knowledge of Borrower does not fail to reflect any material matter affecting the Property or the title thereto, which was required to be set forth therein pursuant to Section 3.2(c) hereof.

#### SECTION 4.39. EMBARGOED PERSON

As of the date hereof and at all times throughout the term of the Loan, including after giving effect to any transfers of interests permitted pursuant to the Loan Documents, (a) (1) none of the funds or other assets of Borrower constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government and (2) none of the funds or other assets of Borrower Principal constitute property of, or are beneficially owned, directly or

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indirectly by any person, entity or government owning, directly or indirectly, greater than a 10% interest in Borrower Principal, that is subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Borrower or Borrower Principal, as applicable (whether directly or indirectly), is prohibited by law or the Loan made by Lender is in violation of law ("EMBARGOED PERSON"); (b) no Embargoed Person has any interest of any nature whatsoever in Borrower or Borrower Principal, as applicable, with the result that the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower or Borrower Principal, as applicable, have been derived from any unlawful activity with the result that the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

#### SECTION 4.40. PATRIOT ACT

All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including Executive Order 13224 effective September 24, 2001 (collectively referred to in this Section only as the "PATRIOT ACT") and are incorporated into this Section. Each of Borrower and Borrower Principal hereby represents and warrants that Borrower and Borrower Principal and each and every Person affiliated with Borrower or owning directly or indirectly greater than a 10% interest in Borrower Principal or that to Borrower's knowledge has an economic interest in Borrower, or, to Borrower's knowledge, that has or will have an interest in the transaction contemplated by this Agreement or in the Property or will participate, in any manner whatsoever, in the Loan, is: (i) not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and

13224 and all modifications thereto or thereof (as used in this Section only, the "ANNEX"); (ii) in full compliance with the requirements of the Patriot Act and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (as used in this Section only, "OFAC"); (iii) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Act and available to Lender for Lender's review and inspection during normal business hours and upon reasonable prior notice; (iv) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (v) not listed as a Specially Designated Terrorist or as a "blocked" person on any lists maintained by the OFAC pursuant to the Patriot Act or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Act or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Act; (vi) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (vii) not owned or controlled by or now acting and or will in the future act for or on behalf of any person named in the Annex or any other list promulgated under the Patriot Act or any other person who has been determined to be subject to the prohibitions contained in the Patriot Act. Borrower covenants and agrees that in the event Borrower receives any notice that Borrower Principal or Borrower (or any of its beneficial owners or affiliates or participants) become listed on the Annex or any

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other list promulgated under the Patriot Act or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender. It shall be an Event of Default hereunder if Borrower, Borrower Principal or any other party to any Loan Document becomes listed on any list promulgated under the Patriot Act or is indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.

SECTION 4.41. INTENTIONALLY DELETED.

SECTION 4.42. SURVIVAL

Borrower agrees that, unless expressly provided otherwise, all of the representations and warranties of Borrower set forth in this Agreement and elsewhere in this Agreement and in the other Loan Documents shall survive for so long as any portion of the Debt remains owing to Lender. All representations, warranties, covenants and agreements made in this Agreement or in the other Loan Documents by Borrower shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

#### ARTICLE 5 BORROWER COVENANTS

From the date hereof and until repayment of the Debt in full and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Lien of the Mortgage (and all related obligations) in accordance with the terms of this Agreement and the other Loan Documents, Borrower hereby covenants and agrees with Lender that:

SECTION 5.1. EXISTENCE; COMPLIANCE WITH LEGAL REQUIREMENTS

(a) Borrower shall do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence, rights, licenses, permits and franchises and comply in all material respects with all Legal Requirements applicable to it and the Property. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the Legal Requirements affecting the Property, provided that (i) no Default or Event of Default has occurred and is continuing; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower or the Property is subject and shall not constitute a default thereunder; (iii) neither the Property, any part thereof or interest therein, any of the tenants or occupants thereof, nor Borrower shall be affected in any material adverse way as a result of such proceeding; (iv) non-compliance with the Legal Requirements shall not impose civil or criminal liability on Borrower or Lender; (v) Borrower shall have furnished the security as may be required in the proceeding or by Lender to ensure compliance by Borrower with the Legal Requirements; and (vi) Borrower shall have furnished to Lender all other items reasonably requested by Lender.

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#### SECTION 5.2. MAINTENANCE AND USE OF PROPERTY

Borrower shall cause the Property to be maintained in a good and safe condition and repair. The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of Personal Property) other than in accordance with the provisions of Section 5.21 without the prior written consent of Lender. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

#### SECTION 5.3. WASTE

Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security for the Loan. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Property, regardless of the depth thereof or the method of mining or extraction thereof.

#### SECTION 5.4. TAXES AND OTHER CHARGES

(a) Borrower shall pay all Taxes and Other Charges now or hereafter levied or assessed or imposed against the Property or any part thereof no later than ten (10) Business Days prior to the date on which such Taxes or Other Charges would be delinquent; provided, however, Borrower's obligation to directly pay Taxes shall be suspended for so long as Borrower complies with the terms and provisions of Section 9.6 hereof. Borrower shall furnish to Lender receipts (or copies of checks and transmittal letters evidencing the payment of such Taxes or Other Charges) for the payment of the Taxes and the Other Charges prior to the date the same shall become delinquent (provided, however, that Borrower is not required to furnish such receipts for payment of Taxes in the event that such Taxes have been paid by Lender pursuant to Section 9.6 hereof). Subject to any rights of Borrower under this Agreement to contest Liens, Borrower shall not suffer and shall promptly cause to be paid and discharged any Lien or charge whatsoever which may be or become a Lien or charge against the Property, and shall promptly pay for all utility services provided to the Property, except to the extent the costs of such utility services are not payable by Borrower and are billed to Tenants at the Property.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or

application in whole or in part of any Taxes or Other Charges, provided that (i) no Event of Default has occurred and remains uncured; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable Legal Requirements; (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold,

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forfeited, terminated, canceled or lost; (iv) Borrower shall promptly upon final determination thereof pay the amount of any such Taxes or Other Charges, together with all costs, interest and penalties which may be payable in connection therewith; (v) such proceeding shall suspend the collection of such contested Taxes or Other Charges from the Property; and (vi) Borrower shall furnish such security as may be required in the proceeding, or, in the event that neither Original Borrower nor a Borrower Principal Affiliate is Borrower under the Loan, deliver to Lender such reserve deposits as may be requested by Lender, to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon (unless Borrower has paid all of the Taxes or Other Charges under protest). Lender may pay over any such cash deposit or part thereof held by Lender to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established or the Property (or part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, canceled or lost or there shall be any danger of the Lien of the Mortgage being primed by any related Lien.

#### SECTION 5.5. LITIGATION

Borrower shall give prompt written notice to Lender of any litigation or governmental proceedings pending or threatened in writing against Borrower which could reasonably be expected to materially adversely affect Borrower's condition (financial or otherwise) or business or the Property.

#### SECTION 5.6. ACCESS TO PROPERTY

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

#### SECTION 5.7. NOTICE OF DEFAULT

Borrower shall promptly advise Lender of any material adverse change in the condition (financial or otherwise) of Borrower, any Borrower Principal or the Property or of the occurrence of any Default or Event of Default of which Borrower has knowledge.

#### SECTION 5.8. COOPERATE IN LEGAL PROCEEDINGS

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

#### SECTION 5.9. PERFORMANCE BY BORROWER

Borrower shall in a timely manner observe, perform and fulfill each and every covenant, term and provision to be observed and performed by Borrower under this Agreement and the other Loan Documents and any other agreement or instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

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SECTION 5.10. AWARDS; INSURANCE PROCEEDS

Borrower shall cooperate with Lender in obtaining for Lender the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with the Property, and Lender shall be reimbursed for any expenses incurred in connection therewith (including reasonable, actual attorneys' fees and disbursements, and the payment by Borrower of the expense of an appraisal on behalf of Lender in case of a Casualty or Condemnation affecting the Property or any part thereof) out of such Awards or Insurance Proceeds.

SECTION 5.11. FINANCIAL REPORTING

(a) Borrower and Borrower Principal shall keep adequate books and records of account in accordance with methods acceptable to Lender in its reasonable discretion, consistently applied and shall furnish to Lender:

(i) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual certified rent rolls signed and dated by Borrower in the form prepared by Borrower in the ordinary course of the operation of its business and providing at least as much detail as contained in the rent rolls delivered to Lender in connection with the closing of the Loan, within twenty (20) days after the end of each calendar month, forty-five (45) days after the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable;

(ii) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual operating statements of the Property, prepared and certified by Borrower in the form used by Borrower in the ordinary course of its operations, detailing the revenues received, the expenses incurred and the net operating income before and after debt service (principal and interest) and major capital improvements for the period of calculation and containing appropriate year-to-date information, within twenty (20) days after the end of each calendar month, forty-five (45) days after the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable; and

(iii) annually, with respect to MHC, financial statements (on a consolidated basis with MHCOP) prepared and audited by an Acceptable Accountant, within ninety (90) days of the close of each fiscal year of MHC and MHCOP, as applicable.

(b) Intentionally deleted.

(c) Borrower shall comply with the following:

(i) Intentionally deleted.

(ii) If requested by Lender, Borrower shall provide Lender, promptly upon request, with summaries of the financial statements referenced in Section 5.11(c)(ii)(A)-(D) below if, at the time a Disclosure Document is being prepared for a Securitization, it is expected that the principal amount of the Loan and any Affiliated Loans at the time of Securitization may, or if the principal amount of the Loan and any Affiliated Loans at any

time during which the Loan and any Affiliated Loans are included in a Securitization does, equal or exceed 10% of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in a Securitization. Such summaries shall meet the requirements for "summarized financial information," as defined in Section 210.1-02(bb) of Regulation S-X, or such other requirements as may be reasonably determined to be necessary or appropriate by Lender.

(A) A balance sheet with respect to the Property for the two most recent fiscal years, meeting the requirements of Section 210.3-01 of Regulation S-X of the Securities Act and statements of income and statements of cash flows with respect to the Property for the three most recent fiscal years, meeting the requirements of Section 210.3-02 of Regulation S-X, and, to the extent that such balance sheet is more than 135 days old as of the date of the document in which such financial statements are included, interim financial statements of the Property meeting the requirements of Section 210.3-01 and 210.3-02 of Regulation S-X (all of such financial statements, collectively, the "Standard Statements"); provided, however, that with respect to a Property (other than properties that are hotels, nursing homes, or other properties that would be deemed to constitute a business and not real estate under Regulation S-X or other legal requirements) that has been acquired by Borrower from an unaffiliated third party (such Property, "Acquired Property"), as to which the other conditions set forth in Section 210.3-14 of Regulation S-X for provision of financial statements in accordance with such Section have been met, in lieu of the Standard Statements otherwise required by this section, Borrower shall instead provide the financial statements required by such Section 210.3-14 of Regulation S-X ("Acquired Property Statements").

(B) Not later than 30 days after the end of each fiscal quarter following the date hereof, a balance sheet of the Property as of the end of such fiscal quarter, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for the period commencing following the last day of the most recent fiscal year and ending on the date of such balance sheet and for the corresponding period of the most recent fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(C) Not later than 75 days after the end of each fiscal year following the date hereof, a balance sheet of the Property as of the end of such fiscal year, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for such fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(D) Within ten Business Days after notice from Lender in connection with the Securitization of this Loan, such additional financial statements, such that, as of the date (each an "Offering Document Date") of each Disclosure Document, Borrower shall have provided Lender with all financial statements as described in subsection (f)(i) above; provided that the fiscal year and interim

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periods for which such financial statements shall be provided shall be determined as of such Offering Document Date.

(iii) All financial statements provided by Borrower hereunder pursuant to Section 5.11(c)(ii) hereof shall be prepared in accordance with GAAP, and shall meet the requirements of Regulation S-X and other applicable legal requirements. All financial statements (audited or unaudited) provided by Borrower under this Section 5.11 shall be certified by an authorized officer or administrative member of Borrower, which certification shall state that such financial statements meet the requirements set forth in the first sentence of

this Section 5.11(c) (iii).

(iv) If requested by Lender, Borrower shall provide Lender, promptly upon request, with any other or additional financial statements, or financial, statistical or operating information, as Lender shall determine to be required pursuant to Regulation S-X or any amendment, modification or replacement thereto or other legal requirements in connection with any Disclosure Document or any filing under or pursuant to the Exchange Act in connection with or relating to a Securitization (hereinafter an "Exchange Act Filing") or as shall otherwise be reasonably requested by Lender.

(v) In the event Lender determines, in connection with a Securitization, that the financial statements required in order to comply with Regulation S-X or other legal requirements are other than as provided herein, then notwithstanding the provisions of Section 5.11(c) hereof, Lender may request, and Borrower shall promptly provide, such combination of Acquired Property Statement and/or Standard Statements or such other financial statements as Lender determines to be necessary or appropriate for such compliance.

(vi) Any reports, statements or other information required to be delivered under this Agreement shall be delivered in paper form and in the event that Lender requires financial statements in connection with subsection (c) above because the Loan when combined with the principal amount of any Affiliated Loans equal or exceed 20% of the aggregate principal amount of all mortgage loans included in a Securitization (defined below), Borrower shall deliver such reports, statements and other information (A) on a diskette, and (B) if requested by Lender and within the capabilities of Borrower's data systems without change or modification thereto, in electronic form and prepared using Microsoft Word for Windows or WordPerfect for Windows files (which files may be prepared using a spreadsheet program and saved as word processing files).

(d) Borrower and Borrower Principal shall furnish Lender with such other additional financial or management information (including state and federal tax returns) as may, from time to time, be reasonably required by Lender in form and substance satisfactory to Lender (including, without limitation, any financial reports required to be delivered by any Tenant or any guarantor of any Lease pursuant to the terms of such Lease), and shall furnish to Lender and its agents convenient facilities for the examination and audit of any such books and records.

(e) All items requiring the certification of Borrower shall, except where Borrower is an individual, require a certificate executed by the general partner, managing member or

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authorized/senior officer of Borrower, as applicable (and the same rules shall apply to any sole shareholder, general partner or managing member which is not an individual).

(f) Notwithstanding anything to the contrary contained herein, in no event shall Borrower be required to comply with the financial reporting requirements of Regulation S-X that would be applicable solely as a result of the principal amount of the Loan and any Affiliated Loans (at the time of Securitization) equaling or exceeding 20% of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in a Securitization.

#### SECTION 5.12. ESTOPPEL STATEMENT

(a) After request by Lender, Borrower shall within fifteen (15) Business Days furnish Lender with a statement, duly acknowledged and certified,



setting forth (i) the amount of the original principal amount of the Note, (ii) the rate of interest on the Note, (iii) the unpaid principal amount of the Note, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) that the Note, this Agreement, the Mortgage and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.

(b) Borrower shall use its reasonable efforts to deliver to Lender, promptly upon request, but subject to the terms of the applicable Major Leases that are either Ground Leases or Operating Leases, duly executed estoppel certificates from any one or more Tenants thereunder as required by Lender (but no more frequently than once every twelve (12) months provided no Event of Default has occurred and is continuing) attesting to such facts regarding the related Lease as Lender may reasonably require, including, but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, except as security, and that the Tenant claims no defense or offset against the full and timely performance of its obligations under the Lease.

#### SECTION 5.13. LEASING MATTERS.

(a) Except as otherwise consented to by Lender in writing, all Leases shall be written on the standard form of lease which shall have been (i) with respect to pad Leases, delivered to Lender in connection with the closing of the Loan and (ii) with respect to Operating Leases or Ground Leases, if any, approved by Lender, provided however that Lender acknowledges that to the extent any portion of the Property consists of a recreational vehicle resort, Borrower shall not be required to enter into written Leases with any occupant or tenant of such portion of the Property and such tenants and/or occupants of such recreational vehicle resorts shall be deemed month to month tenants or licensees of Borrower. So long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Borrower may modify its standard form of pad lease in accordance with sound business practices and Legal Requirements, provided that the form of such Lease contains covenants and conditions that are consistent with those contained in comparable leases in the applicable local market. Notwithstanding the foregoing, in the event that the majority of owners, managers and/or operators of comparable recreational vehicle resorts in the applicable local market enter into written Leases with the occupants of

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recreational vehicle resorts, Borrower shall be required to enter into written Leases with respect to such occupants, and the form of such lease shall contain terms and conditions that are consistent with those of Leases of comparable properties in the applicable market or sub-market. Upon request, Borrower (1) shall furnish Lender with executed copies of all Major Leases and (2) shall make available to Lender at Borrower's offices (upon reasonable notice to Borrower), executed copies of all other Leases. No material changes may be made to the Lender-approved standard form of Operating Lease and Ground Lease, if applicable, without the prior written consent of Lender. In addition, all renewals of Leases and all proposed leases shall provide for rental rates and terms comparable to existing local market rates and terms and, except with respect to one pad at the Property used for on-site community managers (or other employees of Manager), shall be arm's-length transactions with bona fide, independent third party tenants. All proposed Major Leases and renewals of existing Major Leases shall be subject to the prior approval of Lender and its counsel, at Borrower's expense. All Leases shall provide that they are subordinate to the Mortgage and that the tenant agrees to attorn to Lender.

(b) Borrower (i) shall observe and perform all the obligations imposed upon the landlord under the Leases and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (ii) shall enforce all of the material terms, covenants and conditions contained in the Leases upon the part of the Tenant thereunder to be observed or performed, short

of termination thereof; provided however, with respect to pad leases, a pad Lease may be terminated in the event of a default by the tenant thereunder; (iii) with respect to any Leases (other than Leases relating to mobile home park pads or recreational vehicle resort pads), shall not collect any of the Rents more than one (1) month in advance; provided, however, that in no event shall Borrower collect any Rents under Leases (or any other applicable occupancy agreements (written or otherwise)) relating to mobile home park pads or recreational vehicle resort pads more than one (1) year in advance; (iv) shall not execute any other assignment of the landlord's interest in the Leases or the Rents; and (v) shall not consent to any assignment of or subletting under the Major Leases not in accordance with their terms, without the prior written consent of Lender.

(c) Notwithstanding the provisions of subsection (a) above, renewals of existing commercial Leases and proposed Leases for commercial space shall not be subject to the prior approval of Lender, provided all of the following conditions are satisfied: (i) the rental income pursuant to the renewal or proposed Lease is not more than five (5%) percent of the total rental income for the Property, (ii) the renewal or proposed Lease has a base term of less than six (6) years including options to renew, (iii) no rent, credits, free rents or concessions have been granted under the renewal or proposed Lease (except to the extent consistent with current market conditions), (iv) the renewal or proposed Lease is subject and subordinate to the Mortgage and the tenant thereunder shall have agreed to attorn to Lender, (v) the renewal or proposed Lease is on the standard form of lease approved by Lender, (vi) the renewal or proposed Lease does not contain any option, offer, right of first refusal, or other similar right to acquire all or any portion of the Property, and (vii) the renewal or proposed Lease provides for rental rates and terms comparable to existing market rates and terms and is an arm's-length transaction with a bona fide, independent third party tenant. Borrower shall deliver to Lender copies of all Leases which are entered into pursuant to the preceding sentence together with Borrower's certification that it has satisfied all of the conditions of the preceding sentence within thirty (30) days after the execution of the Lease.

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#### SECTION 5.14. PROPERTY MANAGEMENT

(a) Borrower shall (i) promptly perform and observe all of the covenants required to be performed and observed by it under the Management Agreement and do all things necessary to preserve and to keep unimpaired its material rights thereunder; (ii) promptly notify Lender of any material default under the Management Agreement of which it is aware; (iii) promptly deliver to Lender a copy of any notice of default or other material notice received by Borrower under the Management Agreement; (iv) promptly give notice to Lender of any notice or information that Borrower receives which indicates that Manager is terminating the Management Agreement or that Manager is otherwise discontinuing its management of the Property; and (v) promptly enforce the performance and observance of all of the covenants required to be performed and observed by Manager under the Management Agreement.

(b) If at any time, (i) an Event of Default under Section 11.1(a) hereof has occurred and is continuing; or (ii) Manager is not an Affiliated Manager and either (A) a default has occurred and is continuing under the Management Agreement or (B) Manager has become insolvent or a debtor in a bankruptcy proceeding, Borrower shall, at the request of Lender, terminate the Management Agreement upon thirty (30) days prior notice to Manager and replace Manager with a Qualified Manager approved by Lender on terms and conditions satisfactory to Lender, it being understood and agreed that the management fee for such replacement manager shall not exceed then prevailing market rates.

(c) Intentionally deleted.

(d) Any entity Controlled by MHC or MHCOP shall be deemed Qualified Manager. Borrower shall not, without the prior written consent of

Lender (which consent shall not be unreasonably withheld, conditioned or delayed): (i) surrender, terminate or cancel the Management Agreement or otherwise replace Manager or enter into any other management agreement with respect to the Property; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; or (iv) otherwise modify, change, supplement, alter or amend, or waive or release any of its rights and remedies under, the Management Agreement in any material respect, provided, however, that if Manager is Controlled by MHC or MHCOP, then Borrower shall have the right to enter into amendments to the Management Agreement (1) which are consistent with good operating practices, (2) which do not increase any of the fees or other similar charges payable by Borrower thereunder and (3) which do not otherwise materially increase any of Borrower's obligations thereunder, and Borrower shall have the right to enter into a new management agreement with another entity Controlled by MHC or MHCOP on substantially the same terms and conditions as those set forth in the Management Agreement approved by Lender in connection with the closing of the Loan and otherwise in accordance with the terms permitted hereunder, without the consent of Lender. In the event that Borrower replaces Manager at any time during the term of Loan pursuant to this subsection, such Manager shall be a Qualified Manager.

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#### SECTION 5.15. LIENS

Borrower shall not, without the prior written consent of Lender, create, incur, assume or suffer to exist any Lien on any portion of the Property or permit any such action to be taken, except Permitted Encumbrances.

#### SECTION 5.16. DEBT CANCELLATION

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

#### SECTION 5.17. ZONING

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

#### SECTION 5.18. ERISA

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

(b) Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan, as requested by Lender in its sole discretion, that (i) Borrower is not and does not maintain an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(3) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) 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);

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

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

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#### SECTION 5.19. NO JOINT ASSESSMENT

Borrower shall not suffer, permit or initiate the joint assessment of the Property with (a) any other real property constituting a tax lot separate from the Property, or (b) any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the Lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to the Property.

#### SECTION 5.20. RECIPROCAL EASEMENT AGREEMENTS

Borrower shall not enter into, terminate or modify (in any material respects) any REA without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Borrower shall enforce, comply with, and cause each of the parties to the REA to comply with all of the material economic terms and conditions contained in the REA. Lender acknowledges that it would be unreasonable to withhold its consent to Borrower entering into an REA with an Affiliate owning property adjacent to the Property with respect to the use of certain amenities and facilities at the Property, provided that (A) any such REA would not (i) have a material adverse affect on the Property or the Borrower, (ii) impose any material obligations on the Borrower, (B) the terms of any such REA provide that Borrower shall be paid fair market value for the use of such amenities and/or facilities under any such REA and (C) sufficient utilities, facilities and other amenities shall continue to be available to and serve the Property.

#### SECTION 5.21. ALTERATIONS

Lender's prior approval shall be required in connection with any alterations to any Improvements, exclusive of alterations to tenant spaces required under any Lease, (a) that may have a material adverse effect on the Property or (b) that, together with any other alterations undertaken at the same time (including any related alterations, improvements or replacements), are reasonably anticipated to have a cost in excess of the Alteration Threshold. Notwithstanding the provisions of subsection (b) above and provided that either the Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Lender's prior approval shall not be required in connection with any alterations in excess of the Alteration Threshold, provided that Lender shall have received (a) a current Appraisal of the Property (or a letter update to the Appraisal delivered in connection with the closing of the Loan), (b) a certificate from Borrower and (c) such other evidence that would be satisfactory to a prudent institutional mortgage loan lender each indicating that such alterations will not impair (as security for the Loan) the fair market value of the real estate collateral portion of the Property, as determined by a prudent institutional secondary market lender. If the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements shall at any time exceed the Alteration Threshold and regardless of whether Lender's consent is required in connection with any such alterations, Borrower shall promptly deliver to Lender as security for the payment of such amounts and as additional security for Borrower's obligations under the Loan Documents any of the following: (i) cash, (ii) direct non-callable obligations of the United States of America or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, to the extent

acceptable to the applicable Rating Agencies, (iii) other securities acceptable to Lender and the Rating Agencies, or (iv) a completion bond,

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provided that such completion bond is acceptable to the Lender and the Rating Agencies. Such security shall be in an amount equal to the excess of the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements over the Alteration Threshold.

#### SECTION 5.22. TAX CREDITS

Borrower shall not claim a low income housing credit for the Property under Section 42 of the Internal Revenue Code without Lender's prior written consent.

#### SECTION 5.23. INTENTIONALLY DELETED.

### ARTICLE 6 ENTITY COVENANTS

#### SECTION 6.1. SINGLE PURPOSE ENTITY/SEPARATENESS

Until the Debt has been paid in full, Borrower represents, warrants and covenants as follows:

(a) Borrower has not and will not:

(i) engage in any business or activity other than the ownership, operation and maintenance of the Property, and activities incidental thereto;

(ii) acquire or own any assets other than (A) the Property, and (B) such incidental Personal Property as may be necessary for the operation of the Property;

(iii) merge into or consolidate with any Person, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;

(iv) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the applicable Legal Requirements of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;

(v) own any subsidiary, or make any investment in, any Person;

(vi) commingle its assets with the assets of any other Person;

(vii) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Debt, (B) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (1) unsecured, (2) not evidenced by a note, (3) on commercially reasonable terms and conditions, and (4) due not more than sixty (60) days past the date incurred and paid on or prior to such date, and/or (C) financing leases and purchase

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money indebtedness incurred in the ordinary course of business relating to Personal Property on commercially reasonable terms and conditions; provided however, the aggregate amount of the indebtedness described in (B) and (C) shall not exceed at any time three percent (3%) of the outstanding principal amount of the Note;

(viii) fail to 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; except that Borrower's financial position, assets, liabilities, net worth and operating results may be included in the consolidated financial statements of an Affiliate, provided that such consolidated financial statements indicate that Borrower is a separate legal entity and that it maintains separate books and records;

(ix) enter into any contract or agreement with any general partner, member, shareholder, principal, guarantor of the obligations of Borrower, or any Affiliate of the foregoing, except upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(x) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xi) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts 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;

(xii) make any loans or advances to any Person;

(xiii) fail to file its own tax returns or files a consolidated federal income tax return with any Person (unless prohibited or required, as the case may be, by applicable Legal Requirements);

(xiv) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(xv) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, provided, however, that any such failure to maintain adequate capital will not constitute a breach of this covenant if cash flow from the Property is insufficient for Borrower to maintain adequate capital as set forth above;;

(xvi) if it is a partnership or limited liability company, without the unanimous written consent of all of its partners or members, as applicable, and the written consent of 100% of the managers of Borrower (if any), including, without limitation, each Independent Director, (a) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Creditors Rights Laws, (b) seek or consent to the appointment of a receiver, liquidator or any similar official, (c) take any action that might

cause such entity to become insolvent, or (d) make an assignment for the benefit of creditors;

(xvii) fail to allocate shared expenses (including, without limitation, shared office space and services performed by an employee of an Affiliate) among the Persons sharing such expenses and to use separate stationery, invoices and checks;

(xviii) make any distributions so as to render Borrower insolvent or cause Borrower to become unable to pay its own liabilities (including, without limitation, the salaries of its own employees, if any) from its own funds;

(xix) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable; or

(xx) violate or cause to be violated the assumptions made with respect to Borrower and its principals in any opinion letter pertaining to substantive consolidation delivered to Lender in connection with the Loan; or

(xxi) If Borrower is a partnership or limited liability company, each general partner in the case of a general partnership, each general partner in the case of a limited partnership, or the managing member in the case of a limited liability company (each an "SPE COMPONENT ENTITY") of Borrower, as applicable, shall be a corporation or a single member Delaware limited liability company whose sole asset is its interest in Borrower. Each SPE Component Entity (i) will at all times comply with each of the covenants, terms and provisions contained in Section 6.1(a)(iii) - (vi) and (viii) - (xxi), as if such representation, warranty or covenant was made directly by such SPE Component Entity; (ii) will not engage in any business or activity other than owning an interest in Borrower; (iii) will not acquire or own any assets other than its partnership, membership, or other equity interest in Borrower; (iv) will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation); (v) will at all times when the Loan is outstanding own at least a one hundredth of one percent (.01%) general partnership or managing membership interest in Borrower; and (vi) will cause Borrower to comply with the provisions of this Section 6.1 and Section 6.4. Prior to the withdrawal or the disassociation of any SPE Component Entity from Borrower, Borrower shall immediately appoint a new general partner or managing member whose articles of incorporation or limited liability company operating agreement, as applicable, are substantially similar to those of such SPE Component Entity and, if an opinion letter pertaining to substantive consolidation was required at closing, deliver a new opinion letter acceptable to Lender and the Rating Agencies with respect to the new SPE Component Entity and its equity owners. Notwithstanding the foregoing, to the extent Borrower is a single member Delaware limited liability company, so long as Borrower maintains such formation status, no SPE Component Entity shall be required.

(b) In the event Borrower is a single member Delaware limited liability company, the limited liability company agreement of Borrower (the "LLC AGREEMENT") shall provide that (i) upon the occurrence of any event that causes the sole member of Borrower ("MEMBER") to cease to be the member of Borrower (other than (A) upon an assignment by Member of all of its

limited liability company interest in Borrower and the admission of the transferee in accordance with the Loan Documents and the LLC Agreement, or (B) the resignation of Member and the admission of an additional member of Borrower in accordance with the terms of the Loan Documents and the LLC Agreement), any person acting as Independent Director of Borrower shall, without any action of any other Person and simultaneously with the Member ceasing to be the member of Borrower, automatically be admitted to Borrower ("SPECIAL MEMBER") and shall

continue Borrower without dissolution and (ii) Special Member may not resign from Borrower or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to Borrower as Special Member in accordance with requirements of Delaware law and (B) such successor Special Member has also accepted its appointment as an Independent Director. The LLC Agreement shall further provide that (i) Special Member shall automatically cease to be a member of Borrower upon the admission to Borrower of a substitute Member, (ii) Special Member shall be a member of Borrower that has no interest in the profits, losses and capital of Borrower and has no right to receive any distributions of Borrower assets, (iii) pursuant to Section 18-301 of the Delaware Limited Liability Company Act (the "ACT"), Special Member shall not be required to make any capital contributions to Borrower and shall not receive a limited liability company interest in Borrower, (iv) Special Member, in its capacity as Special Member, may not bind Borrower and (v) except as required by any mandatory provision of the Act, Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, Borrower, including, without limitation, the merger, consolidation or conversion of Borrower; provided, however, such prohibition shall not limit the obligations of Special Member, in its capacity as Independent Director, to vote on such matters required by the Loan Documents or the LLC Agreement. In order to implement the admission to Borrower of Special Member, Special Member shall execute a counterpart to the LLC Agreement. Prior to its admission to Borrower as Special Member, Special Member shall not be a member of Borrower.

Upon the occurrence of any event that causes the Member to cease to be a member of Borrower, to the fullest extent permitted by law, the personal representative of Member shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of Member in Borrower, agree in writing (i) to continue Borrower and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Borrower, effective as of the occurrence of the event that terminated the continued membership of Member of Borrower in Borrower. Any action initiated by or brought against Member or Special Member under any Creditors Rights Laws shall not cause Member or Special Member to cease to be a member of Borrower and upon the occurrence of such an event, the business of Borrower shall continue without dissolution. The LLC Agreement shall provide that each of Member and Special Member waives any right it might have to agree in writing to dissolve Borrower upon the occurrence of any action initiated by or brought against Member or Special Member under any Creditors Rights Laws, or the occurrence of an event that causes Member or Special Member to cease to be a member of Borrower.

#### SECTION 6.2. CHANGE OF NAME, IDENTITY OR STRUCTURE

Borrower shall not change or permit to be changed (a) Borrower's name, (b) Borrower's identity (including its trade name or names), (c) Borrower's principal place of business set forth on the first page of this Agreement, (d) the corporate, partnership or other organizational

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structure of Borrower, each SPE Component Entity (if any), or Borrower Principal, (e) Borrower's state of organization, or (f) Borrower's organizational identification number, without in each case notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender. In addition, Borrower shall not change or permit to be changed any organizational documents of Borrower or any SPE Component Entity (if any) if such change would adversely impact the covenants set forth in Section 6.1 and Section 6.4 hereof. Borrower authorizes Lender to file any financing statement or financing statement amendment required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and



warranting that Borrower does business under no other trade name with respect to the Property. If Borrower does not now have an organizational identification number and later obtains one, or if the organizational identification number assigned to Borrower subsequently changes, Borrower shall promptly notify Lender of such organizational identification number or change.

#### SECTION 6.3. BUSINESS AND OPERATIONS

Borrower will qualify to do business and will remain in good standing under the laws of the State as and to the extent the same are required for the ownership, maintenance, management and operation of the Property.

#### SECTION 6.4. INDEPENDENT DIRECTOR

(a) The organizational documents of Borrower or each SPE Component Entity (if any), as applicable, shall provide that at all times there shall be, and Borrower shall cause there to be, at least one manager (each an "INDEPENDENT DIRECTOR") of Borrower or such SPE Component Entity, as applicable, reasonably satisfactory to Lender each of whom are not at the time of such individual's initial appointment, and shall not have been at any time during the preceding five (5) years, and shall not be at any time while serving as a director of Borrower or such SPE Component Entity, as applicable, either (i) a shareholder (or other equity owner) of, or an officer, director, partner, manager, member (other than as a Special Member in the case of single member Delaware limited liability companies), employee, attorney or counsel of, Borrower, such SPE Component Entity or any of their respective shareholders, partners, members, subsidiaries or affiliates; (ii) a customer or creditor of, or supplier to, Borrower or any of its respective shareholders, partners, members, subsidiaries or affiliates who derives any of its purchases or revenue from its activities with Borrower or such SPE Component Entity or any Affiliate of any of them; (iii) a Person who Controls or is under common Control with any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer; or (iv) a member of the immediate family of any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer.

(b) The organizational documents of Borrower or each SPE Component Entity (if any), as the case may be, shall provide that the manager of Borrower or such SPE Component Entity, as applicable, shall not take any action which, under the terms of any articles of organization or operating agreement, as applicable, requires an unanimous vote of the members

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and manager of Borrower or such SPE Component Entity, as the case may be, unless at the time of such action there shall be at least one manager who is an Independent Director. Borrower or such SPE Component Entity, as applicable, will not, without the unanimous written consent of its members and managers, including each Independent Director, on behalf of itself or Borrower, (i) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable Creditors Rights Laws; (ii) seek or consent to the appointment of a receiver, liquidator or any similar official; (iii) take any action that might cause such entity to become insolvent; or (iv) make an assignment for the benefit of creditors.

### ARTICLE 7 NO SALE OR ENCUMBRANCE

#### SECTION 7.1. TRANSFER DEFINITIONS

For purposes of this Article 7 an "AFFILIATED MANAGER" shall mean any managing agent in which Borrower, Borrower Principal, any SPE Component Entity (if any) or any affiliate of such entities has, directly or indirectly, any legal, beneficial or economic interest; "CONTROL" shall mean the power to direct the management and policies of a Restricted Party, directly or indirectly, whether through the ownership of voting securities or other beneficial

interests, by contract or otherwise; "RESTRICTED PARTY" shall mean Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager, or any shareholder, partner, member or non-member manager, or any direct or indirect legal or beneficial owner of Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager or any non-member manager; and a "SALE OR PLEDGE" shall mean a voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, grant of any options with respect to, or any other transfer or disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest.

#### SECTION 7.2. NO SALE/ENCUMBRANCE

(a) Borrower shall not cause or permit a Sale or Pledge of the Property or any part thereof or any legal or beneficial interest therein nor permit a Sale or Pledge of an interest in any Restricted Party (in each case, a "PROHIBITED TRANSFER"), other than pursuant to Leases to Tenants in accordance with the provisions of Section 5.13, without the prior written consent of Lender.

(b) A Prohibited Transfer shall include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) except to the extent permitted pursuant to Section 7.7 hereof, an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (iii) if a Restricted Party is a corporation, any merger, consolidation or Sale or Pledge of such corporation's stock or the creation or issuance of new stock in one or a series of transactions; (iv) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Sale or

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Pledge of the partnership interest of any general or limited partner or any profits or proceeds relating to such partnership interests or the creation or issuance of new partnership interests; (v) if a Restricted Party is a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Sale or Pledge of the membership interest of any member or any profits or proceeds relating to such membership interest; or (vi) if a Restricted Party is a trust or nominee trust, any merger, consolidation or the Sale or Pledge of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests.

#### SECTION 7.3. PERMITTED TRANSFERS

(a) Notwithstanding the provisions of Section 7.2, the following transfers shall not be deemed to be a Prohibited Transfer: (i) a transfer by devise or descent or by operation of law upon the death of a member, partner or shareholder of a Restricted Party; (ii) the Sale or Pledge, in one or a series of transactions, of not more than forty-nine percent (49%) in the aggregate of the stock, limited partnership interests or non-managing membership interests (as the case may be) in Borrower; provided, however, no such transfers shall result in a change in Control in the Restricted Party or change in control of the Property, and as a condition to each such transfer, Lender shall receive not less than thirty (30) days prior written notice of such proposed transfer or (iii) the sale, transfer or issuance of stock in MHC provided that MHC is listed on the New York Stock Exchange or such other nationally recognized stock exchange. Notwithstanding the foregoing, any transfer that results in any Person owning in excess of forty-nine percent (49%) of the ownership interest in a Restricted Party shall comply with the requirements of Section 7.4 hereof,

provided however, that with respect to transfers provided for in subsection (a)(iii) hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any such transfers.

(b) In addition to the foregoing and supplementing subsection (a) above, Lender's prior written consent shall not be required with respect to (i) direct or indirect transfers of interests in Borrower among MHC, MHCOP and their Affiliates, (ii) transfers of limited partnership interests in MHCOP, provided that MHC or an MHC Subsidiary remains the controlling general partner of MHCOP, (iii) the merger or consolidation of MHC or MHCOP without regard to whether MHC or MHCOP, as applicable, is the surviving entity or (iv) MHC's contribution of ownership interests in MHCOP to a MHC Subsidiary, provided that with respect to the transfers set forth in clauses (i), (ii), (iii) and (iv) above, the Property shall continue to be managed by Manager or a Qualified Manager and Borrower and any SPE Component Entity shall continue to comply with Article 6 hereof. Notwithstanding the requirements set forth in Section 7.4 hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any transfers permitted under this subsection (b)(ii), (iii) and (iv). "MHC SUBSIDIARY" means an entity (A) in which MHC directly owns at least a ninety-five percent (95%) interest and (B) that is under the Control of MHC.

#### SECTION 7.4. LENDER'S RIGHTS

Lender reserves the right to condition the consent to a Prohibited Transfer requested hereunder upon (a) a modification of the terms hereof and an assumption of the Note and the

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other Loan Documents as so modified by the proposed Prohibited Transfer, (b) receipt of payment of a transfer fee equal to one percent (1%) of the outstanding principal balance of the Loan and all of Lender's expenses incurred in connection with such Prohibited Transfer, (c) receipt of written confirmation from the Rating Agencies that the Prohibited Transfer will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to be assigned in connection with a Securitization, (d) the proposed transferee's continued compliance with the covenants set forth in this Agreement (including, without limitation, the covenants in Article 6) and the other Loan Documents, (e) a new manager for the Property and a new management agreement satisfactory to Lender, and (f) the satisfaction of such other conditions and/or legal opinions as Lender shall determine in its sole discretion to be in the interest of Lender. All expenses incurred by Lender shall be payable by Borrower whether or not Lender consents to the Prohibited Transfer. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Prohibited Transfer made without Lender's consent. This provision shall apply to each and every Prohibited Transfer, whether or not Lender has consented to any previous Prohibited Transfer. Notwithstanding anything to the contrary contained in this Section 7.4, in the event a substantive non-consolidation opinion was delivered to Lender and the Rating Agencies in connection with the closing of the Loan, and if any Sale or Pledge permitted under this Article 7 results in any Person and its Affiliates owning in excess of forty-nine percent (49%) of the ownership interests in a Restricted Party, Borrower shall, prior to such transfer, and in addition to any other requirement for Lender consent contained herein, deliver a revised substantive non-consolidation opinion to Lender reflecting such Prohibited Transfer, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

#### SECTION 7.5. ASSUMPTION

Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer of the Property in its entirety to, and the related assumption of the Loan by, any Person (a

"TRANSFEE") and Lender shall release Borrower and Borrower Principal from their obligations under the Loan (to the extent such obligations arise from events occurring after the date of the assumption), provided that each of the following terms and conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer not less than sixty (60) days before the date on which such transfer is scheduled to close and, concurrently therewith, all such information concerning the proposed Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000 (which fee shall be credited against the assumption fee payable in connection with such assumption). Lender shall have the right to approve or disapprove the proposed transfer based on its then current underwriting and credit requirements for similar loans secured by similar properties which loans are sold in the secondary market, such approval not to be unreasonably withheld. In determining whether to give or withhold its approval of the proposed transfer, Lender shall consider the experience and track record of

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Transferee and its principals in owning and operating facilities similar to the Property, the financial strength of Transferee and its principals, the general business standing of Transferee and its principals and Transferee's and its principals' relationships and experience with contractors, vendors, tenants, lenders and other business entities; provided, however, that, notwithstanding Lender's agreement to consider the foregoing factors in determining whether to give or withhold such approval, such approval shall be given or withheld based on what Lender determines to be commercially reasonable and, if given, may be given subject to such conditions as Lender may deem reasonably appropriate;

(c) Borrower shall have paid to Lender, concurrently with the closing of such transfer, (i) a non-refundable assumption fee in an amount equal to one percent (1.0%) of the then outstanding principal balance of the Note (subject to credit for any previously paid non-refundable processing fees), and (ii) all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer;

(d) Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer, Transferee and its constituent partners, members or shareholders as Lender may require, shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate said assumption;

(e) Borrower and Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Property, as applicable, is vested in Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(g) Transferee shall have furnished to Lender, if Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Transferee and of the entities, if any, which are

partners or members of Transferee. Transferee and such constituent partners, members or shareholders of Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(h) Transferee shall assume the obligations of Borrower under any Management Agreement or provide a new management agreement with a new manager which meets with the requirements of Section 5.14 hereof and assign to Lender as additional security such new management agreement;

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(i) Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Transferee's formation documents provide for the matters described in subparagraph (g) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Transferee in accordance with their terms, (C) that Transferee and any entity which is a controlling stockholder, member or general partner of Transferee, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

(j) if required by Lender, Lender shall have received confirmation in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(k) Borrower's obligations under the contract of sale pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.5; and

(l) in the event a substantive non-consolidation opinion was delivered to Lender in connection with the closing of the Loan, Transferee shall, prior to such transfer, deliver a new or updated substantive non-consolidation opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

A consent by Lender with respect to a transfer of the Property in its entirety to, and the related assumption of the Loan by, a Transferee pursuant to this Section 7.5 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the Property. Notwithstanding anything to the contrary contained in this Section 7.5, prior to a Securitization Lender's consent to any transfer of the Property and assumption of the Loan pursuant to this Section 7.5 shall not be required if the consideration to be paid to Borrower by the proposed Transferee is less than the appraised value of the Property as determined by Lender.

SECTION 7.6. INTENTIONALLY DELETED.

SECTION 7.7. ASSUMPTIONS IN CONNECTION WITH CERTAIN TRANSFERS TO AFFILIATES.

Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer (by deed or ground lease for nominal consideration), of a portion of the Property (the "AFFILIATE TRANSFER PORTION OF THE PROPERTY") to, and the related assumption of the Loan by, an Affiliate of Borrower (i) in which Borrower Principal owns, directly or indirectly, at least a 70% ownership interest or (ii) in which MHCOP owns, directly or indirectly, at least a 99% ownership interest (an "AFFILIATE TRANSFEREE") such Affiliate Transferee to be a co-obligor and co-mortgagee under the Loan and jointly and severally obligated thereunder, provided that, among other things, each of the following conditions are satisfied:

(a) no Default or Event of Default has occurred;

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(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer and assumption not less than sixty (60) days before the date on which such transfer and assumption is scheduled to close and, concurrently therewith, all such information concerning the proposed Affiliate Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000;

(c) Borrower shall have paid to Lender all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer and assumption;

(d) Affiliate Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer and assumption, Affiliate Transferee shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate such transfer and assumption;

(e) Borrower and Affiliate Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new and/or amended security instruments, financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Affiliate Transferee shall have furnished to Lender, if Affiliate Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Affiliate Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Affiliate Transferee and of the entities, if any, which are partners or members of Affiliate Transferee. Affiliate Transferee and such constituent partners, members or shareholders of Affiliate Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(g) Affiliate Transferee shall (i) assume the obligations of Borrower under any Management Agreement as they relate to the Affiliate Transfer Portion of the Property, provided, however, that in the event the Affiliate Transfer Portion of the Property is operated solely as a sewage treatment and/or water treatment facility and operated solely by Affiliate Transferee (and Manager does not perform any services with respect to the Affiliate Transfer Portion of the Property), Affiliate Transferee shall not be required to assume the obligations of Borrower under the Management Agreement, and (ii) if applicable, execute an assignment to Lender of such Management Agreement as additional security for the Loan;

(h) Affiliate Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Affiliate Transferee's formation documents provide for the matters described in subparagraph (f) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Affiliate Transferee in accordance with their terms, (C) that Affiliate Transferee and any entity which is a controlling stockholder, managing or sole member or general partner of Affiliate Transferee,

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have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

(i) if required by Lender, Lender shall have received confirmation

in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(j) Borrower's obligations under the contract of sale, if any, pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.7;

(k) in the event an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower and Affiliate Transferee shall, prior to such transfer and assumption, deliver a new or updated Insolvency Opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies;

(l) Borrower shall deliver to Lender evidence which would be satisfactory to a prudent lender that (i) the Affiliate Transfer Portion of the Property has been legally split or subdivided from the remainder of the Property; (ii) after giving effect to such transfer, each of the Affiliate Transfer Portion of the Property and the balance of the Property conforms and is in compliance in all material respects with applicable Legal Requirements and constitutes a separate tax lot and (iii) the Affiliate Transfer Portion of the Property is not necessary for the Property to comply with any zoning, building, land use or parking or other Legal Requirements applicable to the Property or for the then current use of the Property, including, without limitation, for access, driveways, parking, utilities or drainage or, to the extent that the Affiliate Transfer Portion of the Property is necessary for any such purposes, a reciprocal easement agreement has been executed and recorded that would allow the owner of the Property to continue to use the Affiliate Transfer Portion of the Property to the extent necessary for such purposes;

(m) Borrower shall deliver to Lender an endorsement to the Title Insurance Policy (i) extending the effective date of the Title Insurance Policy to the effective date of the transfer; (ii) confirming no change in the priority of the Mortgage on the Property (including the Affiliate Transfer Portion of the Property) or in the amount of the insurance or the coverage of the Property under the Title Insurance Policy; and (iii) insuring the rights and benefits under any new or amended reciprocal easement agreement or such other agreement required pursuant to subsection 7.7(1)(iii) hereof that has been executed and recorded, if any. Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Affiliate Transfer Portion of the Property, as applicable, is vested in Affiliate Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(n) not less than three (3) Business Days prior to the date of the transfer and assumption, Borrower delivers to Lender approvals to the transfer executed by any entities other than Lender holding Liens encumbering the Property or the Affiliate Transfer Portion of the

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Property (or holding any other interest therein that would be affected by the transfer), if and to the extent such approval is required pursuant to the terms of any of the documents evidencing or securing such Lien or interest;

(o) Borrower and Affiliate Transferee have complied with any requirements applicable to the transfer in any Major Leases, REA's, operating agreements, parking agreements or other similar agreements affecting the Property or the Affiliate Transfer Portion of the Property and the transfer does not violate any of the provisions of such documents in any respect that would result in a termination (or give any other party thereto the right to terminate), extinguishment or other loss of material right of Borrower or in a material increase in Borrower's obligations under such documents and, to the extent necessary to comply with such documents, the Affiliate Transferee has

assumed Borrower's obligations, if any, relating to the Affiliate Transfer Portion of the Property under such documents; and

(p) if a securitization shall have occurred, Borrower shall deliver to Lender one or more opinions of counsel for Borrower and Affiliate Transferee in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that the transfer and assumption by Affiliate Transferee pursuant to this Section 7.7 (1) will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (2) will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost; and

(q) Borrower delivers to Lender any other information, approvals and documents which would be required by a prudent Lender in connection with such transfer and assumption.

A consent by Lender with respect to a transfer of a portion of the Property to, and the related assumption of the Loan by, an Affiliate Transferee pursuant to this Section 7.7 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the Property or assumption of the Loan. Notwithstanding any transfer and assumption to an Affiliate Transferee pursuant to this Section 7.7, the Property and the Affiliate Transfer Portion of the Property shall be deemed a single Property for purposes of this Agreement and the Loan.

#### SECTION 7.8. ADDITIONAL PERMITTED TRANSFERS.

Notwithstanding anything to the contrary contained in this Article 7, Borrower may grant easements, restrictions, covenants, reservations and rights of way with respect to the Property in the ordinary course of business for water and sewer lines, telephone and telegraph lines, electric lines and other utilities or for other similar purposes, provided that such transfers, conveyances or encumbrances (i) shall not impair the utility and operation of the Property or materially adversely affect the value of the Property or adversely affect Borrower's ability to pay the Debt or the Monthly Payment Amount and (ii) shall be in a form that is reasonably acceptable to Lender.

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### ARTICLE 8 INSURANCE; CASUALTY; CONDEMNATION; RESTORATION

#### SECTION 8.1. INSURANCE

(a) Borrower shall obtain and maintain, or cause to be maintained, at all times insurance for Borrower and the Property providing at least the following coverages:

(i) comprehensive "all risk" insurance (excluding terrorism coverage) on the Improvements and the Personal Property, in each case (A) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Agreement shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (B) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (C) providing for no deductible in excess of \$100,000 for all such insurance coverage; and (D) if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses, providing coverage for contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements and containing an "Ordinance or Law Coverage" or "Enforcement" endorsement. In addition, Borrower shall obtain: (y) if any portion of the Improvements is currently or at any time in the future located in a "special flood hazard area" designated by the



Federal Emergency Management Agency, flood hazard insurance in an amount equal to the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended, and providing for no deductible in excess of \$250,000; and (z) earthquake insurance in amounts and in form and substance reasonably satisfactory to Lender in the event the Property is located in an area with a high degree of seismic risk, provided that the insurance pursuant to clauses (y) and (z) hereof shall be on terms consistent with the comprehensive all risk insurance policy required under this subsection (i);

(ii) Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, with such insurance (A) to be on the so-called "occurrence" form with a general aggregate limit of not less than \$2,000,000 and a per occurrence limit of not less than \$1,000,000; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; and (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations; (3) independent contractors; (4) blanket contractual liability; and (5) contractual liability covering the indemnities contained in Article 12 and Article 14 hereof to the extent the same is available;

(iii) loss of rents insurance or business income insurance, as applicable, (A) with loss payable to Lender; (B) covering all risks required to be covered by the insurance provided for in subsection (i) above; and (C) which provides that after the physical loss to the Improvements and Personal Property occurs, the loss of rents or income, as applicable, will be insured until completion of Restoration or the expiration of

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twelve (12) months, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period; and (D) which contains an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such loss of rents or business income insurance, as applicable, shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross income from the Property for the succeeding period of coverage required above. All proceeds payable to Lender pursuant to this subsection shall be held by Lender and shall be applied to the obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured by the Loan Documents on the respective dates of payment provided for in the Note, this Agreement and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such loss of rents or business income insurance, as applicable;

(iv) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements, and only if the Property coverage form does not otherwise apply, (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance

provided for in subsection (i) above written in a so-called Builder's Risk Completed Value form (1) on a non-reporting basis, (2) against "all risks" insured against pursuant to subsection (i) above, (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions;

(v) workers' compensation, subject to the statutory limits of the State, and employer's liability insurance in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable);

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

(vii) excess liability insurance in an amount not less than \$50,000,000 per occurrence on terms consistent with the commercial general liability insurance required under subsection (ii) above; and

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

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(b) All insurance provided for in Section 8.1(a) shall be obtained under valid and enforceable policies (collectively, the "POLICIES" or in the singular, the "POLICY"), and shall be subject to the approval of Lender as to insurance companies, amounts, deductibles, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the State and having a claims paying ability rating of either (1) "AA" or better by at least two Rating Agencies, one of which must be S&P or such other Rating Agencies approved by Lender or (2) at least A-/VII by A.M. Best Company, Inc. The Policies described in Section 8.1(a) shall designate Lender and its successors and assigns as additional insureds, mortgagees and/or loss payee as deemed appropriate by Lender. To the extent such Policies are not available as of the Closing Date, Borrower shall deliver certified copies of all Policies to Lender not later than thirty (30) days after the Closing Date. Not less than ten (10) days prior to the expiration dates of the Policies theretofore furnished to Lender, Borrower shall deliver to Lender certificates evidencing renewal of the Policies (such certificates, the "INSURANCE CERTIFICATES") accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "INSURANCE PREMIUMS") and within sixty (60) days after the expiration date of such Policies, Borrower shall deliver to Lender renewal Policies

(c) Any blanket insurance Policy shall specifically allocate to the Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Section 8.1(a).

(d) All Policies provided for or contemplated by Section 8.1(a), except for the Policy referenced in Section 8.1(a)(v), shall name Borrower as the insured, as its interests may appear, and in the case of property damage, boiler and machinery, flood and earthquake insurance, shall contain a so-called New York standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies provided for in Section 8.1(a) shall contain clauses or endorsements to the effect that:

(i) no act or negligence of Borrower, or anyone acting

for Borrower, or of any Tenant or other occupant, or failure to comply with the provisions of any Policy, which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Lender is concerned;

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

(iii) the issuers thereof shall give written notice to Lender if the Policies have not been renewed thirty (30) days prior to its expiration; and

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

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

#### SECTION 8.2. CASUALTY

If the Property shall be damaged or destroyed, in whole or in part in any material respect, by fire or other casualty (a "CASUALTY"), Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the Restoration of the Property in accordance with Section 8.4, whether or not Lender makes any Net Proceeds available pursuant to Section 8.4. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower. Borrower shall adjust all claims for Insurance Proceeds in consultation with, and approval of, Lender; provided, however, if an Event of Default has occurred and is continuing, Lender shall have the exclusive right to participate in the adjustment of all claims for Insurance Proceeds.

#### SECTION 8.3. CONDEMNATION

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

Borrower shall promptly commence and diligently prosecute the Restoration of the Property and otherwise comply with the provisions of Section 8.4, whether or not Lender makes any Net Proceeds available pursuant to Section 8.4. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the Award, or a portion thereof sufficient to pay the Debt.

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#### SECTION 8.4. RESTORATION

The following provisions shall apply in connection with the Restoration of the Property:

(a) If the Net Proceeds shall be less than \$250,000 and the costs of completing the Restoration shall be less than \$250,000, the Net Proceeds will be disbursed by Lender to Borrower upon receipt, provided that all of the conditions set forth in Section 8.4(b)(i) are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to satisfactorily complete with due diligence the Restoration in accordance with the terms of this Agreement.

(b) If the Net Proceeds are equal to or greater than \$250,000 or the costs of completing the Restoration are equal to or greater than \$250,000, Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Section 8.4. The term "NET PROCEEDS" for purposes of this Section 8.4 shall mean: (i) the net amount of all insurance proceeds received by Lender pursuant to Section 8.1(a)(i), (iv), (vi) and (viii) as a result of a Casualty, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("INSURANCE PROCEEDS"), or (ii) the net amount of the Award as a result of a Condemnation, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("CONDEMNATION PROCEEDS"), whichever the case may be.

(i) The Net Proceeds shall be made available to Borrower for Restoration provided that each of the following conditions are met:

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

(B) (1) in the event the Net Proceeds are Insurance Proceeds, less than twenty-five percent (25%) of the mobile home and/or recreational vehicle pads, as applicable, on the Property shall be rendered unusable for a period in excess of twelve (12) months as a result of a Casualty or (2) in the event the Net Proceeds are Condemnation Proceeds, less than fifteen percent (15%) of the rentable area of the Property and fifteen percent (15%) of the fair market value of the Land constituting the Property is taken, such land is located along the perimeter or periphery of the Property, and no portion of the permanent Improvements is located on such land;

(C) intentionally deleted;

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

(E) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note, which will be incurred with respect to the Property as a result of the occurrence of any such

Casualty or Condemnation, whichever the case may be, will be covered out of the insurance coverage referred to in Section 8.1(a)(iii) above;

(F) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) six (6) months prior to the Maturity Date, (2) the earliest date required for such completion under the terms of any Major Leases, Ground Leases, if applicable, Operating Leases, if applicable, or material agreements affecting the Property, (3) such time as may be required under applicable zoning law, ordinance, rule or regulation, or (4) the expiration of the insurance coverage referred to in Section 8.1(a)(iii);

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

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

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

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

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

(ii) The Net Proceeds shall be held by Lender until disbursements commence, and, until disbursed in accordance with the provisions of this Section 8.4, shall constitute additional security for the Debt and other obligations under the Loan Documents. The Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower on a monthly basis during the course of the Restoration in accordance with customary construction lending practices, upon receipt of evidence satisfactory to Lender that (A) all the conditions precedent to such advance, including those set forth in Section 8.4(b)(i), have been satisfied, (B) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the related Restoration item have been paid for in full, and (C) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property which have not either been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policy. Notwithstanding the foregoing, Insurance Proceeds from the Policies required to be maintained by Borrower pursuant to Section 8.1(a)(iii) shall be controlled by Lender at all times, shall not be subject to the provisions of this

Section 8.4 and shall be used for the payment of all of the obligations due and payable under the Loan Documents for the entire time period for which any such Insurance Proceeds relate. After such application of the Insurance Proceeds, the remaining balance, if any, of any such proceeds shall be disbursed and/or applied as follows: (A) provided no Event of Default has occurred and is continuing, to Borrower and (B) upon the occurrence and during the continuance of an Event of Default, to Operating Expenses.

(iii) All plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender and to the extent the Restoration relates to any permanent Improvements on the Property, by an independent consulting engineer selected by Lender (the "Restoration Consultant"). Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. To the extent the Restoration relates to any permanent Improvements on the Property, the identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts in excess of \$100,000 under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Restoration Consultant. All costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration, including, without limitation, reasonable counsel fees and disbursements and the Restoration Consultant's fees, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Restoration Consultant, minus the Restoration Retainage. The term "Restoration Retainage" shall mean an amount equal to ten percent (10%) of the costs actually incurred for work in place as part of the Restoration, as certified by the Restoration Consultant, until the Restoration has been completed. The Restoration Retainage shall be reduced to five percent (5%) of the costs incurred upon receipt by Lender of satisfactory evidence that fifty percent (50%) of the Restoration has been completed. The Restoration Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Section 8.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Restoration Retainage shall not be released until the Restoration Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b) and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate Governmental Authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Restoration Retainage; provided, however, that Lender will release the portion of the Restoration Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Restoration Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company issuing the Title Insurance Policy, and

Lender receives an endorsement to the Title Insurance Policy insuring

the continued priority of the lien of the Mortgage and evidence of payment of any premium payable for such endorsement. If required by Lender, the release of any such portion of the Restoration Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(vi) If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the reasonable opinion of Lender in consultation with the Restoration Consultant, as applicable, be sufficient to pay in full the balance of the costs which are estimated to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "Net Proceeds Deficiency") with Lender before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be held by Lender and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Section 8.4(b) shall constitute additional security for the Debt and other obligations under the Loan Documents.

(vii) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after Borrower and the Restoration Consultant, to the extent applicable, certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b), and the receipt by Lender of evidence satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be remitted by Lender to Borrower, provided no Event of Default shall have occurred and shall be continuing under the Note, this Agreement or any of the other Loan Documents.

(c) All Net Proceeds not required (i) to be made available for the Restoration or (ii) to be returned to Borrower as excess Net Proceeds pursuant to Section 8.4(b) (vii) may (x) be retained and applied by Lender toward the payment of the Debt whether or not then due and payable in such order, priority and proportions as Lender in its sole discretion shall deem proper, or, (y) at the sole discretion of Lender, the same may be paid, either in whole or in part, to Borrower for such purposes and upon such conditions as Lender shall designate.

(d) In the event of foreclosure of the Mortgage, or other transfer of title to the Property in extinguishment in whole or in part of the Debt, all right, title and interest of Borrower in and to the Policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure, Lender or other transferee in the event of such other transfer of title.

ARTICLE 9  
RESERVE FUNDS

SECTION 9.1. REQUIRED REPAIRS

(a) Borrower shall make the repairs and improvements to the Property set forth on Schedule 2 and as more particularly described in the Physical Conditions Report prepared in connection with the closing of the Loan (such repairs hereinafter referred to as "REQUIRED REPAIRS"). Borrower shall complete the Required Repairs in a good and workmanlike manner on or before the date that is twelve (12) months from the date hereof or within such other time frame for completion specifically set forth on Schedule 2.

## SECTION 9.2. REPLACEMENTS

(a) On an ongoing basis throughout the term of the Loan, Borrower shall make capital repairs, replacements and improvements necessary to keep the Property in good order and repair and in a good marketable condition or prevent deterioration of the Property ("REPLACEMENTS"). Borrower shall complete all Replacements in a good and workmanlike manner as soon as commercially reasonable after commencing to make each such Replacement.

(b) Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent to fund the Replacements (the "REPLACEMENT RESERVE ACCOUNT"). In addition, Borrower shall deposit \$4.17 monthly per pad (the "REPLACEMENT RESERVE MONTHLY DEPOSIT") into the Replacement Reserve Account on each Scheduled Payment Date during any Replacement Reserve Period. Amounts so deposited shall hereinafter be referred to as "REPLACEMENT RESERVE FUNDS."

## SECTION 9.3. INTENTIONALLY DELETED.

## SECTION 9.4. REQUIRED WORK.

Borrower shall diligently pursue all Required Repairs and Replacements (collectively, the "REQUIRED WORK") to completion in accordance with the following requirements:

(a) Lender reserves the right, at its option, to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Required Work to the extent such contracts or work orders exceed \$100,000. Upon Lender's request, Borrower shall assign any contract or subcontract to Lender.

(b) In the event Lender determines in its reasonable discretion that any Required Work is not being or has not been performed in a workmanlike or timely manner, upon ten (10) days notice to Borrower and Borrower's failure to commence performance of such Required Work in accordance with this Section 9.4, Lender shall have the option to withhold disbursement for such unsatisfactory Required Work and to proceed under existing contracts or to contract with third parties to complete such Required Work and to apply Replacement Reserve Funds, if any, toward the labor and materials necessary to complete such Required Work, without

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providing any prior notice to Borrower and to exercise any and all other remedies available to Lender upon an Event of Default hereunder.

(c) In order to facilitate Lender's completion of the Required Work, as permitted in subsection 9.4(b) above, Borrower grants Lender the right to enter onto the Property and perform any and all work and labor necessary to complete the Required Work and/or employ watchmen to protect the Property from damage. All sums so expended by Lender, to the extent not from the Reserve Funds, shall be deemed to have been advanced under the Loan to Borrower and secured by the Mortgage. For this purpose Borrower constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete or undertake the Required Work in the name of Borrower upon Borrower's failure to do so in a workmanlike and timely manner. Such power of attorney shall be deemed to be a power coupled with an interest and cannot be revoked. Borrower empowers said attorney-in-fact as follows: (i) to use any of the Reserve Funds for the purpose of making or completing the Required Work; (ii) to make such additions, changes and corrections to the Required Work as shall be reasonably necessary to complete the Required Work; (iii) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes; (iv) to pay, settle or compromise all existing bills and claims which are or may become Liens against the Property, or as may be reasonably necessary for the completion of the Required Work, or for clearance of title; (v) to execute all applications and certificates in the name of Borrower which may be required by any of the contract documents; (vi) to



prosecute and defend all actions or proceedings in connection with the Property or the rehabilitation and repair of the Property; and (vii) to do any and every act which Borrower would be required to do on its own behalf to fulfill the terms of this Agreement.

(d) Nothing in this Section 9.4 shall: (i) make Lender responsible for making or completing the Required Work; (ii) require Lender to expend funds in addition to the Reserve Funds to make or complete any Required Work; (iii) obligate Lender to proceed with the Required Work; or (iv) obligate Lender to demand from Borrower additional sums to make or complete any Required Work.

(e) Borrower shall permit Lender and Lender's agents and representatives (including, without limitation, Lender's engineer, architect, or inspector) or third parties performing Required Work pursuant to this Section 9.4 to enter onto the Property during normal business hours (subject to the rights of tenants under their Leases) to inspect the progress of any Required Work and all materials being used in connection therewith, to examine all plans and shop drawings relating to such Required Work which are or may be kept at the Property, and to complete any Required Work made pursuant to this Section 9.4. Borrower shall cause all contractors and subcontractors to cooperate with Lender and Lender's representatives or such other persons described above in connection with inspections described in this Section 9.4 or the completion of Required Work pursuant to this Section 9.4.

(f) Lender may, to the extent any Required Work would reasonably require an inspection of the Property, inspect the Property at Borrower's expense prior to making a disbursement of the Reserve Funds in order to verify completion of the Required Work for which reimbursement is sought. Borrower shall pay Lender a reasonable inspection fee not exceeding \$500 for each such inspection. Lender may require that such inspection be conducted by an

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appropriate independent qualified professional selected by Lender and/or may require a copy of a certificate of completion by an independent qualified professional acceptable to Lender prior to the disbursement of the Reserve Funds. Borrower shall pay the expense of the inspection as required hereunder, whether such inspection is conducted by Lender or by an independent qualified professional.

(g) The Required Work and all materials, equipment, fixtures, or any other item comprising a part of any Required Work shall be constructed, installed or completed, as applicable, free and clear of all mechanic's, materialman's or other Liens (except for Permitted Encumbrances).

(h) Before each disbursement of the Reserve Funds, if any, Lender may require Borrower to provide Lender with a search of title to the Property effective to the date of the disbursement, which search shows that no mechanic's or materialmen's or other Liens of any nature have been placed against the Property since the date of recordation of the Mortgage and that title to the Property is free and clear of all Liens (except for Permitted Encumbrances).

(i) All Required Work shall comply with all Legal Requirements in all material respects and applicable insurance requirements including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters.

(j) Borrower hereby assigns to Lender all rights and claims Borrower may have against all Persons supplying labor or materials in connection with the Required Work; provided, however, that Lender may not pursue any such rights or claims unless an Event of Default has occurred and remains uncured.

#### SECTION 9.5. RELEASE OF RESERVE FUNDS

(a) Upon written request from Borrower and satisfaction of the requirements set forth in this Agreement, Lender shall disburse to Borrower

amounts, if any, from the Replacement Reserve Account to the extent necessary to reimburse Borrower for the actual costs of any approved Replacements. Notwithstanding the preceding sentence, in no event shall Lender be required to (x) disburse funds from any of the Reserve Accounts if an Event of Default exists or (y) disburse funds (if any) from the Replacement Reserve Account to reimburse Borrower for the costs of routine repairs or maintenance to the Property or for costs which are to be reimbursed from funds held in any other Reserve Account.

(b) Each request for disbursement from any of the Reserve Accounts shall be on a form provided or approved by Lender and shall (i) include copies of invoices for all items or materials purchased and all labor or services provided and (ii) specify (A) the Required Work for which the disbursement is requested, (B) the quantity and price of each item purchased, if the Required Work includes the purchase or replacement of specific items, (C) the price of all materials (grouped by type or category) used in any Required Work other than the purchase or replacement of specific items, and (D) the cost of all contracted labor or other services applicable to each Required Work for which such request for disbursement is made. With each request Borrower shall certify that all Required Work has been performed in accordance with all Legal

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Requirements. Except as provided in Section 9.5(d), each request for disbursement shall be made only after completion of the Replacement (or the portion thereof completed in accordance with Section 9.5(d)) for which disbursement is requested. Borrower shall provide Lender evidence satisfactory to Lender in its reasonable judgment of such completion or performance.

(c) Upon Borrower's request, Lender shall disburse funds from the Replacement Reserve Account to Borrower on a monthly basis, and Borrower shall use such funds to pay all invoices in connection with the Required Work with respect to which a disbursement is requested. In addition, as a condition to any disbursement, Lender may require Borrower to obtain lien waivers from each contractor, supplier, materialman, mechanic or subcontractor who receives payment in an amount equal to or greater than \$10,000 for completion of its work or delivery of its materials. Any lien waiver delivered hereunder shall conform to all Legal Requirements and shall cover all work performed and materials supplied (including equipment and fixtures) for the Property by that contractor, supplier, subcontractor, mechanic or materialman through the date covered by the current disbursement request (or, in the event that payment to such contractor, supplier, subcontractor, mechanic or materialmen is to be made by a joint check, the release of lien shall be effective through the date covered by the previous release of funds request).

(d) If (i) the cost of any item of Required Work exceeds \$25,000 and (ii) the contractor performing such Required Work requires periodic payments pursuant to terms of a written contract, a request for disbursement from the Reserve Accounts may be made after completion of a portion of the work under such contract, provided (A) such contract requires payment upon completion of such portion of work, (B) the materials for which the request is made are on site at the Property and are properly secured or have been installed in the Property, (C) all other conditions in this Agreement for disbursement have been satisfied, and (D) in the case of a Replacement, funds remaining in the Replacement Reserve Account are, in Lender's judgment, sufficient to complete such Replacement and other Replacements when required.

(e) Borrower shall not make a request for, nor shall Lender have any obligation to make, any disbursement from any Reserve Account more frequently than once in any calendar month and (except in connection with the final disbursement) in any amount less than the lesser of (i) \$10,000 or (ii) the total cost of the Required Work for which the disbursement is requested.

(f) Intentionally deleted.

(g) Intentionally deleted.

(h) Lender's disbursement of any Reserve Funds or other acknowledgment of completion of any Required Work in a manner satisfactory to Lender shall not be deemed a certification or warranty by Lender to any Person that the Required Work has been completed in accordance with Legal Requirements.

(i) If the funds in any Reserve Account should exceed the amount of payments actually applied by Lender for the purposes of the account, Lender in its sole discretion shall either return any excess to Borrower or credit such excess against future payments to be made to

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that Reserve Account. In allocating any such excess, Lender may deal with the Person shown on Lender's records as being the owner of the Property.

(j) The insufficiency of any balance in any of the Reserve Accounts shall not relieve Borrower from its obligation to fulfill all preservation and maintenance covenants in the Loan Documents.

(k) INTENTIONALLY DELETED.

(l) Upon termination of the Replacement Reserve Period or payment in full of the Debt, all amounts remaining on deposit, if any, in the Replacement Reserve Account shall be returned to Borrower or the Person shown on Lender's records as being the owner of the Property and no other party shall have any right or claim thereto.

#### SECTION 9.6. TAX AND INSURANCE RESERVE FUNDS

Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent sufficient to discharge Borrower's obligations for the payment of Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof (the "TAX AND INSURANCE RESERVE ACCOUNT"). Borrower shall deposit into the Tax and Insurance Reserve Account on each Scheduled Payment Date during any Tax and Insurance Reserve Period (a) one-twelfth of the Taxes that Lender estimates will be payable during the next ensuing twelve (12) months or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Taxes at least thirty (30) days prior to the earlier of (i) the date that the same will become delinquent and (ii) the date that additional charges or interest will accrue due to the non-payment thereof, and (b) except to the extent Lender has waived the insurance escrow because the insurance required hereunder is maintained under a blanket insurance Policy acceptable to Lender in accordance with Section 8.1(c), one-twelfth of the Insurance Premiums that Lender estimates will be payable during the next ensuing twelve (12) months for the renewal of the coverage afforded by the Policies upon the expiration thereof or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Insurance Premiums at least thirty (30) days prior to the expiration of the Policies (said amounts in (a) and (b) above hereinafter called the "TAX AND INSURANCE RESERVE FUNDS"). Lender will apply the Tax and Insurance Reserve Funds to payments of Taxes and Insurance Premiums required to be made by Borrower pursuant to Section 5.4 and Section 8.1 hereof. In making any disbursement from the Tax and Insurance Reserve Account, Lender may do so according to any bill, statement or estimate procured from the appropriate public office or tax lien service (with respect to Taxes) or insurer or agent (with respect to Insurance Premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If the amount of the Tax and Insurance Reserve Funds shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the Tax and Insurance Reserve Account. In allocating any such excess, Lender may deal with the person shown on Lender's records as being the owner of the Property. Any amount remaining in the Tax and Insurance Reserve Account after the Debt has been paid in full shall be returned to Borrower or the person shown on Lender's records as being the owner of the

Property and no other party shall have any right or claim thereto. If at any time Lender

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reasonably determines that the Tax and Insurance Reserve Funds are not or will not be sufficient to pay Taxes and Insurance Premiums by the dates set forth in (a) and (b) above, Lender shall notify Borrower of such determination and Borrower shall pay to Lender any amount necessary to make up the deficiency within ten (10) days after notice from Lender to Borrower requesting payment thereof.

#### SECTION 9.7. EXCESS CASH

Borrower shall establish on the date hereof a sub-account of the Cash Management Account into which Borrower shall deposit all Excess Cash on each Scheduled Payment Date during any Cash Management Period (the "EXCESS CASH RESERVE ACCOUNT"). Amounts so deposited shall hereinafter be referred to as the "EXCESS CASH RESERVE FUNDS." Sums from the Excess Cash Reserve Account shall be disbursed to Borrower's Account upon the discontinuation of a Cash Management Period.

#### SECTION 9.8. TERRORISM RESERVE.

Upon the occurrence of an Act of Terror (i) Borrower shall establish an Eligible Account with Lender or Lender's agent (the "TERRORISM RESERVE ACCOUNT") and (ii) Borrower Principal shall immediately deposit into the Terrorism Reserve Account an amount equal to the sum of the three (3) Monthly Payment Amounts that would be payable by Borrower for the three (3) Scheduled Payment Dates immediately following the occurrence of such Act of Terror. Amounts so deposited shall hereinafter be referred to as the "TERRORISM RESERVE FUNDS". "ACT OF TERROR" shall mean any foreign acts of terrorism or similar acts of sabotage (excluding acts of war or nuclear, chemical and biological acts) in which the Property is directly affected by such acts. Lender shall apply Terrorism Reserve Funds, if any, to any amounts due hereunder.

#### SECTION 9.9. RESERVE FUNDS GENERALLY

(a) Funds on deposit in the Reserve Accounts shall be held by Lender or any Loan servicer, as applicable, and invested in Permitted Investments as directed by Lender, and interest shall be credited to Borrower. All such interest shall be and become part of the applicable Reserve Accounts and shall be disbursed in accordance with Section 9.5 above, provided, however, that Lender may, at its election, retain any such interest for its own account for application to the Debt in accordance with this Agreement and the other Loan Documents during the occurrence and continuance of an Event of Default. Borrower agrees that it shall include all interest on the applicable Reserve Funds as the income of Borrower (and, if Borrower is a partnership or other pass-through entity, the partners, members or beneficiaries of Borrower, as the case may be), and shall be the owner of the applicable Reserve Funds for federal and applicable state and local tax purposes.

(b) Borrower grants to Lender a first-priority perfected security interest in, and assigns and pledges to Lender, each of the Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts as additional security for payment of the Debt. Until expended or applied in accordance herewith, the Reserve Accounts and the Reserve Funds shall constitute additional security for the Debt. The provisions of this Section 9.9 are intended

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to give Lender or any subsequent holder of the Loan "control" of the Reserve Accounts within the meaning of the UCC.

(c) The Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts shall be subject to the exclusive dominion and control of Lender, which shall hold the Reserve Accounts and any or all Reserve Funds now or hereafter deposited in the Reserve Accounts subject to the terms and conditions of this Agreement. Borrower shall have no right of withdrawal from the Reserve Accounts or any other right or power with respect to the Reserve Accounts or any or all of the Reserve Funds now or hereafter deposited in the Reserve Accounts, except as expressly provided in this Agreement.

(d) Lender shall furnish or cause to be furnished to Borrower, without charge, an annual accounting of each Reserve Account in the normal format of Lender or its loan servicer, showing credits and debits to such Reserve Account and the purpose for which each debit to each Reserve Account was made.

(e) As long as no Event of Default has occurred and is continuing, Lender shall make disbursements from the Reserve Accounts in accordance with this Agreement. All such disbursements shall be deemed to have been expressly pre-authorized by Borrower, and shall not be deemed to constitute the exercise by Lender of any remedies against Borrower unless an Event of Default has occurred and is continuing and Lender has expressly stated in writing its intent to proceed to exercise its remedies as a secured party, pledgee or lienholder with respect to the Reserve Accounts.

(f) If any Event of Default occurs, Borrower shall immediately lose all of its rights to receive disbursements from the Reserve Accounts until the earlier to occur of (i) the date on which such Event of Default is cured to Lender's satisfaction, or (ii) the payment in full of the Debt. In addition, at Lender's election, Borrower shall lose all of its rights to receive interest on the Reserve Accounts during the occurrence and continuance of an Event of Default. Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured party, pledgee and lienholder with respect to the Reserve Accounts. Without limitation of the foregoing, during the continuance of any Event of Default, Lender may use and disburse the Reserve Funds (or any portion thereof) for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses, fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents; (D) payment of any item from any of the Reserve Accounts as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Reserve Funds and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Reserve Funds to effect a cure

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of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

(g) The Reserve Funds shall not constitute escrow or trust funds and may be commingled with other monies held by Lender. Notwithstanding anything

else herein to the contrary, Lender may commingle in one or more Eligible Accounts any and all funds controlled by Lender, including, without limitation, funds pledged in favor of Lender by other borrowers, whether for the same purposes as the Reserve Accounts or otherwise. Without limiting any other provisions of this Agreement or any other Loan Document, the Reserve Accounts may be established and held in such name or names as Lender or its loan servicer, as agent for Lender, shall deem appropriate, including, without limitation, in the name of Lender or such loan servicer as agent for Lender. In the case of any Reserve Account which is held in a commingled account, Lender or its loan servicer, as applicable, shall maintain records sufficient to enable it to determine at all times which portion of such account is related to the Loan. The Reserve Accounts are solely for the protection of Lender. With respect to the Reserve Accounts, Lender shall have no responsibility beyond the allowance of due credit for the sums actually received by Lender or beyond the reimbursement or payment of the costs and expenses for which such accounts were established in accordance with their terms. Upon assignment of the Loan by Lender, any Reserve Funds shall be turned over to the assignee and any responsibility of Lender as assignor shall terminate. The requirements of this Agreement concerning Reserve Accounts in no way supersede, limit or waive any other rights or obligations of the parties under any of the Loan Documents or under applicable law.

(h) Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in the Reserve Accounts or the Reserve Funds deposited therein or permit any Lien to attach thereto, except for the security interest granted in this Section 9.9, or any levy to be made thereon, or any UCC Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto.

(i) Borrower will maintain the security interest created by this Section 9.9 as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Reserve Accounts and the Reserve Funds against the claims and demands of all Persons whomsoever. At any time and from time to time, upon the written request of Lender, and at the sole expense of Borrower, Borrower will promptly and duly execute and deliver such further instruments and documents and will take such further actions as Lender reasonably may request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted.

#### ARTICLE 10 CASH MANAGEMENT

##### SECTION 10.1. LOCKBOX ACCOUNT AND CASH MANAGEMENT ACCOUNT

(a) Borrower acknowledges and confirms that Borrower has established, and Borrower covenants that it shall maintain, (i) pursuant to the Lockbox Agreement, an Eligible

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Account into which Borrower shall, and shall cause Manager to, deposit or cause to be deposited, all Rents and other revenue from the Property (such account, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "LOCKBOX ACCOUNT"), and (ii) an Eligible Account with Lender or any Loan servicer, as applicable, into which funds in the Lockbox Account shall be transferred pursuant to the terms of Section 10.2(b) hereof (such account, the sub-accounts thereof, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "CASH MANAGEMENT Account").

(b) The Lockbox Account and Cash Management Account shall each be in the name of Borrower for the benefit of Lender, as secured party, provided that Borrower shall be the owner of all funds on deposit in such accounts for federal and applicable state and local tax purposes. Sums on deposit in the Cash Management Account shall not be invested except in such Permitted Investments as

determined and directed by Lender and all income earned thereon shall be the income of Borrower and be applied to and become part of the Cash Management Account, to be disbursed in accordance with this Article 10. Neither Lockbox Bank nor Lender shall have any liability for any loss resulting from the investment of funds in Permitted Investments in accordance with the terms and conditions of this Agreement.

(c) The Lockbox Account and Cash Management Account shall be subject to the exclusive dominion and control of Lender and, except as otherwise expressly provided herein, neither Borrower, Manager nor any other party claiming on behalf of, or through, Borrower or Manager, shall have any right of withdrawal therefrom or any other right or power with respect thereto.

(d) Borrower agrees to pay the customary fees and expenses of Lockbox Bank (incurred in connection with maintaining the Lockbox Account) and Lender (incurred in connection with maintaining the Cash Management Account) and any successors thereto in connection therewith, as separately agreed by them from time to time.

(e) Lender shall be responsible for the performance only of such duties with respect to the Cash Management Account as are specifically set forth herein, and no duty shall be implied from any provision hereof. Lender shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own monies. Borrower shall indemnify and hold Lender and its directors, employees, officers and agents harmless from and against any loss, cost or damage (including, without limitation, reasonable attorneys' fees and disbursements) incurred by such parties in connection with the Cash Management Account other than such as result from the gross negligence or willful misconduct of Lender or intentional nonperformance by Lender of its obligations under this Agreement.

#### SECTION 10.2. DEPOSITS AND WITHDRAWALS

(a) Borrower represents, warrants and covenants that:

(i) Concurrently with the execution of this Agreement, Borrower shall notify and advise Manager to deposit directly into the Lockbox Account all payments of Rents

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or any other item payable under such Leases pursuant to an instruction letter in the form of Exhibit A attached hereto (a "RENT DIRECTION LETTER"). If Borrower fails to provide any such notice (and without prejudice to Lender's rights with respect to such default), Lender shall have the right, and Borrower hereby grants to Lender a power of attorney (which power of attorney shall be coupled with an interest and irrevocable so long as any portion of the Debt remains outstanding), to sign and deliver a Rent Direction Letter;

(ii) Borrower shall, and shall cause Manager to, instruct all Persons that maintain open accounts with Borrower or Manager with respect to the Property or with whom Borrower or Manager does business on an "accounts receivable" basis with respect to the Property to deliver all payments due under such accounts to the Lockbox Account. Neither Borrower nor Manager shall direct any such Person to make payments due under such accounts in any other manner;

(iii) All Rents or other income from the Property shall (A) be deemed additional security for payment of the Debt and shall be held in trust for the benefit, and as the property, of Lender, (B) not be commingled with any other funds or property of Borrower or Manager, and (C) if received by Borrower notwithstanding the delivery of a Rent Direction Letter, be deposited in the Lockbox Account within one (1) Business Day of receipt;

(iv) Without the prior written consent of Lender, so long as any portion of the Debt remains outstanding, Borrower shall not terminate, amend, revoke or modify any Rent Direction Letter in any manner whatsoever or direct or cause Manager to pay any amount in any manner other than as provided in the Rent Direction Letter; and

(v) So long as any portion of the Debt remains outstanding, neither Borrower, Manager nor any other Person shall open or maintain any accounts other than the Lockbox Account into which revenues from the ownership and operation of the Property are deposited. The foregoing shall not prohibit Borrower from utilizing one or more separate accounts for the disbursement or retention of funds that have been transferred to Borrower pursuant to the express terms of this Agreement.

(b) Provided no Event of Default has occurred, at all times other than during a Cash Management Period, Lockbox Bank shall, on each Business Day, withdraw all collected and available funds in excess of \$2,500 (funds are not available if, in the reasonable determination of Lockbox Bank, such funds are subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing their withdrawal) held in the Lockbox Account and disburse such funds to the Borrower Account. Upon the occurrence and during the continuance of a Cash Management Period, Lockbox Bank shall (and Lender shall instruct Lockbox Bank to), on each Business Day, withdraw all collected and available funds (funds are not available if, in the reasonable determination of Lockbox Bank, such funds are subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing their withdrawal) held in the Lockbox Account and transfer by wire transfer or other method of transfer mutually agreeable to Lockbox Bank and Lender to the Cash Management Account to be held until disbursed by Lender pursuant to Section 10.2(c). Provided no Event of Default has occurred and is continuing, upon the earlier to occur of (a) payment in full of the

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Debt or (b) the discontinuation of a Cash Management Period, Lockbox Bank shall no longer transfer funds in the Lockbox Account to the Cash Management Account in accordance with this subsection (b) and shall transfer funds (if any) in the Lockbox Account to the Borrower Account or, upon payment in full of the Debt, as otherwise directed by Borrower. In the event a Cash Management Period occurs three times during the term of the Loan and if required by the Lockbox Bank, Borrower shall not be entitled to any rights to the withdrawal of funds from the Lockbox Account during the remaining term of the Loan, the Cash Management Period shall continue, and Lender shall continue to have the right to the withdrawal of funds from the Lockbox Account until the Debt is paid in full.

(c) During a Cash Management Period, on each Scheduled Payment Date (and if such day is not a Business Day, then the immediately preceding day which is a Business Day) commencing the month immediately following the month during which the Cash Management Period commences, Borrower hereby irrevocably authorizes Lender to withdraw or allocate to the sub-accounts of the Cash Management Account, as the case may be, amounts received in the Cash Management Account, in each case to the extent that sufficient funds remain therefor and Lender may, at its option, withdraw or allocate such funds as follows:

(i) during a Tax and Insurance Reserve Period, funds sufficient to pay the monthly deposits to the Tax and Insurance Reserve Account shall be allocated to the Tax and Insurance Reserve Account to be held and disbursed in accordance with Section 9.6;

(ii) funds sufficient to pay the Monthly Payment Amount (or an amount up to the entire amount of the Debt upon an acceleration of the Loan in accordance with the terms hereof), shall be withdrawn and paid to Lender;



(iii) during a Replacement Reserve Period, funds sufficient to pay the Replacement Reserve Monthly Deposit shall be allocated to the Replacement Reserve Account to be held and disbursed in accordance with Section 9.5;

(iv) funds sufficient to pay any interest accruing at the Default Rate, late payment charges, if any, and any other sums due and payable to Lender under any of the Loan Documents, shall be withdrawn and paid to Lender and applied against such items;

(v) funds sufficient to pay Lockbox Bank for all costs and expenses incurred by Lockbox Bank in connection with the maintenance and administration of the Lockbox Account;

(vi) funds sufficient to pay Lender or any Loan servicer, as applicable, the customary fees and expenses incurred in connection with maintaining the Cash Management Account; and

(vii) funds in an amount equal to the balance (if any) remaining on deposit in the Cash Management Account after the foregoing withdrawals and allocations shall be deposited in the Excess Cash Reserve Account to be held and disbursed in accordance with Section 9.7. Upon the discontinuance of a Cash Management Period, funds (if any) on deposit in the Excess Cash Reserve Account shall be transferred to Borrower's Account.

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(d) Notwithstanding anything to the contrary herein, Borrower acknowledges that Borrower is responsible for monitoring the sufficiency of funds deposited in the Cash Management Account and that Borrower is liable for any deficiency in available funds, irrespective of whether Borrower has received any account statement, notice or demand from Lender or Lender's servicer. If the amount on deposit in the Cash Management Account is insufficient to make all of the withdrawals and allocations described in Section 10.2(c) (i) through (vi) above, Borrower shall deposit such deficiency into the Cash Management Account within five (5) days (provided that such five day period shall not constitute a grace period for any default or Event of Default under this Agreement or any other Loan Document based on a failure to satisfy any monetary obligation provided in any Loan Document).

(e) Notwithstanding anything to the contrary contained herein, if an Event of Default shall have occurred and be continuing, Borrower hereby irrevocably authorizes Lender to make any and all withdrawals from the Lockbox Account and Cash Management Account and transfers between any of the Reserve Accounts as Lender shall determine in Lender's sole and absolute discretion and Lender may use all funds contained in any such accounts for any purpose, including but not limited to repayment of the Debt in such order, proportion and priority as Lender may determine in its sole and absolute discretion. Lender's right to withdraw and apply funds as stated herein shall be in addition to all other rights and remedies provided to Lender under this Agreement, the Note, the Mortgage and the other Loan Documents.

#### SECTION 10.3. SECURITY INTEREST

(a) To secure the full and punctual payment of the Debt and performance of all obligations of Borrower now or hereafter existing under this Agreement and the other Loan Documents, Borrower hereby grants to Lender a first-priority perfected security interest in the Lockbox Account and Cash Management Account, all interest, cash, checks, drafts, certificates and instruments, if any, from time to time deposited or held therein, any and all amounts invested in Permitted Investments, and all "proceeds" (as defined in the UCC as in effect in the state in which the Lockbox Account and Cash Management Account are located or maintained) of any or all of the foregoing. Furthermore, Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any of the foregoing or

permit any Lien to attach thereto or any levy to be made thereon or any UCC Financing Statements to be filed with respect thereto. Borrower will maintain the security interest created by this Section 10.3(a) as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Lockbox Account and Cash Management Account against the claims and demands of all Persons whomsoever.

(b) Borrower authorizes Lender to file any financing statement or statements required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein in connection with the Lockbox Account and Cash Management Account. Borrower agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly and duly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby (including, without limitation, any security interest in and to any Permitted Investments) or to enable Lender to exercise and enforce its rights and remedies hereunder.

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(c) Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured party, pledgee and lienholder with respect to the Lockbox Account and Cash Management Account. Without limitation of the foregoing, upon any Event of Default, Lender may use the Lockbox Account and Cash Management Account for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses, fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents; (D) payment of any item as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Lockbox Account and Cash Management Account and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Lockbox Account or Cash Management Account to effect a cure of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

SECTION 10.4. DEFINITIONS. Notwithstanding anything to the contrary contained herein, For purposes of this Article 10 only, Business Day shall mean a day on which Lender and Lockbox Bank are both open for the conduct of substantially all of their respective banking business at the office in the city in which the Note is payable, with respect to Lender and at the office in the city where the Lockbox Account is maintained, with respect to Lockbox Bank (in both instances, excluding Saturdays and Sundays).

ARTICLE 11  
EVENTS OF DEFAULT; REMEDIES

SECTION 11.1. EVENT OF DEFAULT

The occurrence of any one or more of the following events shall constitute an "EVENT OF DEFAULT":

(a) if any portion of the Debt is not paid prior to the tenth

(10th) calendar day following the date the same is due or if the entire Debt is not paid on or before the Maturity Date;

(b) except as otherwise expressly provided in the Loan Documents, if any of the Taxes or Other Charges are not paid when the same are due and payable, unless there is sufficient money in the Tax and Insurance Reserve Account for payment of amounts then due and payable and Lender's access to such money has not been constrained or restricted in any manner;

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(c) if the Policies are not kept in full force and effect, or if the Insurance Certificates or certified copies of the Policies are not delivered to Lender as provided in Section 8.1;

(d) if Borrower breaches (i) any covenant with respect to itself or any SPE Component Entity (if any) contained in Article 6 and (A) such breach is not cured within ten (10) days of the occurrence thereof and (B) if an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower fails to deliver to Lender, within such ten (10) day period, a new or revised Insolvency Opinion, in form and substance, and from a source satisfactory to Lender and if the Loan has been Securitized, the Rating Agencies, to the effect that such breach does not negate or impair the opinion previously delivered to Lender, or (ii) any covenant contained in Article 7 hereof;

(e) if any representation or warranty of, or with respect to, Borrower, Borrower Principal, any SPE Component Entity, or any member, general partner, principal or beneficial owner of any of the foregoing, made herein, in any other Loan Document, or in any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the closing of the Loan or during the term of the Loan shall have been false or misleading in any material respect when made;

(f) if (i) Borrower, or any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall commence any case, proceeding or other action (A) under any Creditors Rights Laws, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action 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 for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(g) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or

other security agreement covering any part of the Property, whether it be superior or junior in lien to the Mortgage;

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(h) if the Property becomes subject to any mechanic's, materialman's or other Lien other than a Lien for any Taxes or Other Charges not then due and payable and the Lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of sixty (60) days;

(i) if any federal tax lien is filed against Borrower, any member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) or the Property and same is not discharged of record within sixty (60) days after same is filed;

(j) if a final non-appealable judgment is filed against Borrower in excess of \$500,000 which is not vacated or discharged within 45 days;

(k) intentionally deleted;

(l) if Borrower shall permit any event within its control to occur that would cause any material REA to terminate without notice or action by any party thereto or would entitle any party to terminate any material REA and the term thereof by giving notice to Borrower; or any material REA shall be surrendered, terminated or canceled for any reason or under any circumstance whatsoever except as provided for in such REA; or any term of any material REA shall be modified or supplemented in any material respect without Lender's prior written consent; or Borrower shall fail, within ten (10) Business Days after demand by Lender, to exercise its option to renew or extend the term of any material REA or shall fail or neglect to pursue diligently all actions necessary to exercise such renewal rights pursuant to such REA except as provided for in such REA; or

(m) if Borrower shall continue to be in default under any other term, covenant or condition of this Agreement or any of the Loan Documents (including, but not limited to, any guaranty or indemnity) for more than ten (10) days after notice from Lender in the case of any default which can be cured by the payment of a sum of money or for thirty (30) days after notice from Lender in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days.

#### SECTION 11.2. REMEDIES

(a) Upon the occurrence and during the continuance of an Event of Default (other than an Event of Default described in Section 11.1(f) above) and at any time thereafter (until such Event of Default is cured) Lender may, in addition to any other rights or remedies available to it pursuant to this Agreement and the other Loan Documents or at law or in equity, take such action, without notice or demand, that Lender deems advisable to protect and enforce its rights against Borrower and in the Property, including, without limitation, declaring the Debt to be immediately due and payable, and Lender may enforce or avail itself of any or all rights or remedies provided in the Loan Documents against Borrower and the Property, including, without limitation, all rights or remedies available at law or in equity; and upon any Event of Default

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described in Section 11.1(f) above, the Debt and all other obligations of Borrower hereunder and under the other Loan Documents shall immediately and

automatically become due and payable, without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in any other Loan Document to the contrary notwithstanding.

(b) Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to Lender against Borrower under this Agreement or any of the other Loan Documents executed and delivered by, or applicable to, Borrower or at law or in equity may be exercised by Lender at any time and from time to time, whether or not all or any of the Debt shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Loan Documents with respect to the Property. Any such actions taken by Lender shall be cumulative and concurrent and may be pursued independently, singularly, successively, together or otherwise, at such time and in such order as Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by law, equity or contract or as set forth herein or in the other Loan Documents.

ARTICLE 12  
ENVIRONMENTAL PROVISIONS

SECTION 12.1. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants, to its knowledge based upon an Environmental Report of the Property and information that Borrower knows or should reasonably have known, that: (a) there are no Hazardous Materials or underground storage tanks in, on, or under the Property, except those that are both (i) in compliance with Environmental Laws and with permits issued pursuant thereto (if such permits are required), if any, and (ii) either (A) in the case of Hazardous Materials, in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing pursuant to an Environmental Report; (b) there are no past, present or threatened Releases of Hazardous Materials in violation of any Environmental Law or which would require remediation by a Governmental Authority in, on, under or from the Property except as described in the Environmental Report; (c) there is no threat of any Release of Hazardous Materials migrating to the Property except as described in the Environmental Report; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Property except as described in the Environmental Report; (e) Borrower has not received any written notice or other communication from any Person relating to Hazardous Materials in, on, under or from the Property; and (f) Borrower has truthfully and fully provided to Lender, in writing, any and all information relating to material environmental conditions in, on, under or from the Property known to Borrower or contained in Borrower's files and records, including but not limited to any reports relating to Hazardous Materials in, on, under or migrating to or from the Property and/or to the environmental condition of the Property.

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SECTION 12.2. ENVIRONMENTAL COVENANTS

Borrower covenants and agrees that so long as Borrower owns, manages, is in possession of, or otherwise controls the operation of the Property: (a) all uses and operations on or of the Property, whether by Borrower or any other Person, shall be in material compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases (in violation of any Environmental Laws) of Hazardous Materials in, on, under, or from the Property; (c) there shall be no Hazardous Materials in, on, or under the Property, except those that are both (i) in material compliance with all Environmental Laws and with permits issued pursuant thereto, if and to the extent required, and (ii) (A) in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing; (d) Borrower shall keep the Property free and clear of all Environmental Liens; (e) Borrower shall, at its sole cost and expense, fully and

expeditiously cooperate in all activities pursuant to Section 12.4 below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (f) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property, pursuant to any reasonable written request of Lender, upon Lender's reasonable belief that the Property is not in full compliance with all Environmental Laws, and share with Lender the reports and other results thereof, and Lender and other Indemnified Parties shall be entitled to rely on such reports and other results thereof; (g) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (i) reasonably effectuate remediation of any Hazardous Materials in, on, under or from the Property; and (ii) comply in all material respects with any Environmental Law; (h) Borrower shall not allow any tenant or other user of the Property to violate any Environmental Law; and (i) Borrower shall immediately notify Lender in writing after it has become aware of (A) any presence or Release or threatened Release of Hazardous Materials in, on, under, from or migrating towards the Property; (B) any material non-compliance with any Environmental Laws related in any way to the Property; (C) any actual or potential Environmental Lien against the Property; (D) any required or proposed remediation of environmental conditions relating to the Property; and (E) any written notice or other communication of which Borrower becomes aware from any source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials.

#### SECTION 12.3. LENDER'S RIGHTS

Lender and any other Person designated by Lender, including but not limited to any representative of a Governmental Authority, and any environmental consultant, and any receiver appointed by any court of competent jurisdiction, shall have the right, but not the obligation, to enter upon the Property at all reasonable times (upon reasonable notice) to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lender's reasonable discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Borrower shall cooperate with and provide access to Lender and any such person or entity designated by Lender.

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#### SECTION 12.4. OPERATIONS AND MAINTENANCE PROGRAMS

If recommended by the Environmental Report or any other environmental assessment or audit of the Property, Borrower shall establish and comply with an operations and maintenance program with respect to the Property, in form and substance reasonably acceptable to Lender, prepared by an environmental consultant reasonably acceptable to Lender, which program shall address any asbestos-containing material or lead based paint that may now or in the future be detected at or on the Property. Without limiting the generality of the preceding sentence, Lender may require (a) periodic notices or reports to Lender in form, substance and at such intervals as Lender may specify, (b) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters, (c) at Borrower's sole expense, supplemental examination of the Property by consultants specified by Lender, (d) access to the Property by Lender, its agents or servicer, to review and assess the environmental condition of the Property and Borrower's compliance with any operations and maintenance program, and (e) variation of the operations and maintenance program in response to the reports provided by any such consultants.

#### SECTION 12.5. ENVIRONMENTAL DEFINITIONS

"ENVIRONMENTAL LAW" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other government directives or requirements, as well as common law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, that apply to

Borrower or the Property and relate to Hazardous Materials or protection of human health or the environment. "ENVIRONMENTAL LIENS" means all Liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other Person. "ENVIRONMENTAL REPORT" means the written reports resulting from the environmental site assessments of the Property delivered to Lender in connection with the Loan. "HAZARDOUS MATERIALS" shall mean petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls 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 Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a "hazardous substance," "hazardous material", "hazardous waste", "toxic substance", "toxic pollutant", "contaminant", or "pollutant" within the meaning of any Environmental Law. "RELEASE" of any Hazardous Materials includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

#### SECTION 12.6. INDEMNIFICATION

(a) Borrower and Borrower Principal covenant and agree at their sole cost and expense, to protect, defend, indemnify, release and hold Indemnified Parties harmless from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified

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Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (i) any presence of any Hazardous Materials in, on, above, or under the Property; (ii) any past, present or threatened Release of Hazardous Materials in, on, above, under or from the Property; (iii) any activity by Borrower, any Person affiliated with Borrower, and any Tenant or other user of the Property in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other Release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Hazardous Materials at any time located in, under, on or above the Property or any actual or proposed remediation of any Hazardous Materials at any time located in, under, on or above the Property, whether or not such remediation is voluntary or pursuant to court or administrative order, including but not limited to any removal, remedial or corrective action; (iv) any past, present or threatened non-compliance or violations of any Environmental Laws (or permits issued pursuant to any Environmental Law) in connection with the Property or operations thereon, including but not limited to any failure by Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property to comply with any order of any Governmental Authority in connection with any Environmental Laws; (v) the imposition, recording or filing or the threatened imposition, recording or filing of any Environmental Lien encumbering the Property; (vi) any acts of Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property in (A) arranging for disposal or treatment, or arranging with a transporter for transport for disposal or treatment, of Hazardous Materials at any facility or incineration vessel containing such or similar Hazardous Materials or (B) accepting any Hazardous Materials for transport to disposal or treatment facilities, incineration vessels or sites from which there is a Release, or a threatened Release of any Hazardous Substance which causes the incurrence of costs for remediation; and (vii) any misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any covenants or other obligations pursuant to this Agreement relating to environmental matters (the matters listed in clauses (i) through (vii) above are each hereinafter referred to as an "ENVIRONMENTAL PROBLEM").

(b) Upon written request by any Indemnified Party, Borrower and Borrower Principal shall defend same (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their reasonable discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Borrower and Borrower Principal shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

(c) Notwithstanding the foregoing, Borrower shall have no liability for any Losses imposed upon or incurred by or asserted against any Indemnified Parties and described in subsection (a) above to the extent that Borrower can conclusively prove both that such Losses were caused solely by actions, conditions or events that occurred after the date that Lender (or any purchaser at a foreclosure sale) actually acquired title to the Property and that such Losses were not caused by the direct or indirect actions of Borrower, Borrower Principal, or any partner, member, principal, officer, director, trustee or manager of Borrower or Borrower Principal or

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any employee, agent, contractor or Affiliate of Borrower or Borrower Principal. The obligations and liabilities of Borrower and Borrower Principal under this Section 12.6 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, provided however, that in the event (i) the Debt is paid in full in the ordinary course, (ii) Borrower delivers to Lender a Phase I environmental site assessment with respect to the Property which concludes that the Property does not contain any Hazardous Materials and is not subject to any significant risk of contamination from any off site Hazardous Materials in violation of the representations, warranties, and covenants set forth in this Article 12 Agreement, as determined by Lender, (iii) no Event of Default exists and is continuing, (iv) Lender has not exercised any of its remedies under Section 11.2 hereof to obtain an entry of a judgment of foreclosure, exercise any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, (v) as of the date of determination, all of the representations and warranties contained in this Article 12 are true and correct, as determined by Lender and (vi) there has been no change, between the date hereof and the date the Loan is paid in full, in any Environmental Law which would impose liability on a mortgagee or lender with respect to any Environmental Problem notwithstanding the payment in full of the Loan, Borrower and Borrower Principal shall be released from its obligations under this Agreement on the third (3rd) anniversary of the date on which items (i)-(vi) above are satisfied.

#### ARTICLE 13 SECONDARY MARKET

##### SECTION 13.1. TRANSFER OF LOAN

Lender may, at any time, sell, transfer or assign the Loan Documents, or grant participations therein ("PARTICIPATIONS") or syndicate the Loan ("SYNDICATION") or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement ("SECURITIES") (a Syndication or the issuance of Participations and/or Securities, a "SECURITIZATION").

##### SECTION 13.2. DELEGATION OF SERVICING

At the option of Lender, the Loan may be serviced by a servicer/trustee selected by Lender and Lender may delegate all or any portion of its responsibilities under this Agreement and the other Loan Documents to such



servicer/trustee pursuant to a servicing agreement between Lender and such servicer/trustee.

#### SECTION 13.3. DISSEMINATION OF INFORMATION

Lender may forward to each purchaser, transferee, assignee, or servicer of, and each participant, or investor in, the Loan, or any Participations and/or Securities or any of their respective successors (collectively, the "INVESTOR") or any Rating Agency rating the Loan, or any Participations and/or Securities, each prospective Investor, and any organization maintaining databases on the underwriting and performance of commercial mortgage loans, all documents and information which Lender now has or may hereafter acquire relating to the Debt and to Borrower, any managing member or general partner thereof, Borrower Principal, any SPE

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Component Entity (if any) and the Property, including financial statements, whether furnished by Borrower or otherwise, as Lender determines necessary or desirable. Borrower irrevocably waives any and all rights it may have under applicable Legal Requirements to prohibit such disclosure, including but not limited to any right of privacy. In the event of a conflict between any of the provisions of this Section 13.3 and paragraph 5 of that certain letter agreement dated as of August 25, 2003 by Banc of America Securities LLC and accepted and agreed to by Borrower Principal (the "ADVISORY AGREEMENT") (the provisions of which are set forth on Schedule 4, attached hereto) relating to, among other things, confidentiality and the dissemination of certain confidential information, the provisions of the Advisory Agreement shall control.

#### SECTION 13.4. COOPERATION

At the request of the holder of the Note and, to the extent not already required to be provided by Borrower under this Agreement, Borrower and Borrower Principal shall use reasonable efforts to provide updates of the information (i) delivered by Borrower under Section 3.20 hereof or (ii) required to be delivered by Borrower under Article 5 hereof, including, without limitation, to:

(a) provide updated financial, budget and other information with respect to the Property, Borrower, Borrower Principal and Manager (all of the foregoing being referred to as the "PROVIDED INFORMATION");

(b) make changes to the organizational documents of Borrower, any SPE Component Entity and their respective principals;

(c) at Borrower's expense, cause counsel to render or update existing opinion letters as to enforceability and non-consolidation, which may be relied upon by the holder of the Note, the Rating Agencies and their respective counsel, which shall be dated as of the closing date of the Securitization;

(d) at Lender's sole cost and expense, permit site inspections in accordance with the terms of this Agreement, appraisals, market studies and other due diligence investigations of the Property, as may be reasonably requested by the holder of the Note or the Rating Agencies or as may be necessary or appropriate in connection with the Securitization;

(e) intentionally deleted;

(f) execute such amendments to the Loan Documents as may be requested by the holder of the Note or the Rating Agencies or otherwise to effect the Securitization including, without limitation, bifurcation of the Loan into two or more components and/or separate notes and/or creating a senior/subordinate note structure; provided, however, that Borrower shall not be required to modify or amend any Loan Document if such modification or amendment would (i) change the interest rate, the stated maturity or the amortization of principal set forth in the Note, except in connection with a bifurcation of the

Loan which may result in varying fixed interest rates and amortization schedules, but which shall have the same initial weighted average coupon of the original Note, or (ii) in the reasonable judgment of Borrower, modify or amend

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any other material economic term of the Loan, or (iii) in the reasonable judgment of Borrower, materially increase Borrower's obligations and liabilities under the Loan Documents;

(g) deliver to Lender and/or any Rating Agency one or more certificates executed by an officer of Borrower certifying as to the accuracy, as of the closing date of the Securitization, of all representations made by Borrower in the Loan Documents as of the Closing Date or, if such representations are no longer accurate, certifying as to what modifications to the representations would be required to make such representations accurate as of the closing date of the Securitization;

(h) have reasonably appropriate personnel participate in a bank meeting and/or presentation for the Rating Agencies or Investors;

(i) cooperate with and assist Lender in obtaining ratings of the Securities from two (2) or more of the Rating Agencies; and

(j) if required by any Rating Agency, deliver, at Borrower's sole cost and expense and within fifteen (15) Business Days of Lender's request therefore, (1) opinions relating to certain aspects of federal and Delaware law and Borrower's status as a single member Delaware limited liability company thereunder and (2) an Insolvency Opinion, which such opinions shall be given by a law firm acceptable to such Rating Agency and shall otherwise be in form and substance acceptable to such Rating Agency. Lender hereby acknowledges that Borrower may deliver such opinions in one consolidated opinion that, together with the Loan, addresses other Loans (made by Lender) relating to Affiliates of Borrower, provided that such opinion adequately identifies Borrower, the Property and other applicable matters relating to the Loan. In addition, Borrower shall make any changes to its organizational documents to the extent required in connection with the issuance of such opinions, provided that such changes shall not result in an adverse economic effect to Borrower.

All reasonable third party costs and expenses incurred by Borrower in connection with Borrower's complying with requests made under this Section 13.4 shall be paid by Borrower. Lender shall be responsible for all of its out-of-pocket costs in connection with a securitization.

In the event that Borrower requests any consent or approval hereunder and the provisions of this Agreement or any Loan Documents require the receipt of written confirmation from each Rating Agency with respect to the rating on the Securities, or, in accordance with the terms of the transaction documents relating to a Securitization, such a rating confirmation is required in order for the consent of Lender to be given, Borrower shall pay all of the costs and expenses of Lender, Lender's servicer and each Rating Agency in connection therewith, and, if applicable, shall pay any fees imposed by any Rating Agency as a condition to the delivery of such confirmation. Lender agrees, upon request, to use commercially reasonable efforts to cooperate with Borrower and to facilitate Borrower's efforts to obtain any such rating confirmation as required hereunder, which cooperation shall include supplying the Rating Agencies with copies of reports, documents and other information and materials provided to Lender by Borrower, provided however, that in no event shall (1) Lender be required to incur any costs or expenses (other than de minimus costs or expenses) in connection with such cooperation or (2) Lender's agreement hereunder to cooperate with Borrower in obtaining a rating confirmation obligate

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Lender to institute (or threaten to institute) or participate in (or threaten to participate in) any litigation, suits, or proceedings at law or in equity against any Rating Agency in connection with Borrower's efforts to obtain such rating confirmation.

#### SECTION 13.5. SECURITIZATION INDEMNIFICATION

(a) Borrower understands that certain of the Provided Information may be included in disclosure documents in connection with the Securitization, including, without limitation, a prospectus, prospectus supplement, offering memorandum or private placement memorandum (each, a "DISCLOSURE DOCUMENT") and may also be included in filings with the Securities and Exchange Commission pursuant to the Securities Act or the Exchange Act, or provided or made available to investors or prospective investors in the Securities, the Rating Agencies, and service providers relating to the Securitization. In the event that the Disclosure Document is required to be revised prior to the sale of all Securities, Borrower will cooperate with the holder of the Note in updating the Disclosure Document by providing all current information required to be delivered by Borrower under Article 5 hereof necessary to keep the Disclosure Document accurate and complete in all material respects.

(b) Borrower agrees to provide in connection with each of (i) a preliminary and a final offering memorandum or private placement memorandum or similar document (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or (ii) a preliminary and final prospectus or prospectus supplement, as applicable, an indemnification certificate (A) indemnifying Lender (and for purposes of this Section 13.5, Lender hereunder shall include its officers and directors) and the Affiliate of Lender that (i) has filed the registration statement, if any, relating to the Securitization and/or (ii) which is acting as issuer, depositor, sponsor and/or a similar capacity with respect to the Securitization (any Person described in (i) or (ii), an "ISSUER PERSON") and each director and officer of any Issuer Person, and each Person or entity who controls any Issuer Person within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the "ISSUER GROUP") for any Losses to which Lender or the Issuer Group may become subject insofar as the Losses arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or necessary in order to make the statements in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or in light of the circumstances under which they were made, not misleading (collectively the "SECURITIES LIABILITIES") and (B) agreeing to reimburse Lender and the Issuer Group for any legal or other expenses reasonably incurred by Lender and Issuer Group in connection with investigating or defending the Securities Liabilities; provided, however, that Borrower will be liable in any such case under clauses (A) or (B) above only to the extent that any such Securities Liabilities arise out of or is based upon any such untrue statement or omission made therein in reliance upon and in conformity with information furnished to Lender or any member of the Issuer Group by or on behalf of Borrower in connection with the Provided Information. This indemnity agreement will be in addition to any liability which Borrower may otherwise have. Moreover, the indemnification provided for in Clauses (A) and (B) above shall be effective in the

event an indemnification certificate certifying that Borrower has carefully examined any preliminary or a final offering memorandum described above or prospectus or other document (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan), as applicable, including without limitation, the sections entitled "Special Considerations," and/or "Risk Factors," and "Certain Legal Aspects of the

Mortgage Loan," or similar sections, and all sections relating to Borrower, Borrower Principal, Manager, their Affiliates, the Loan, the Loan Documents and the Property, and any risks or special considerations relating thereto, and that, to the best of Borrower's knowledge, such sections (and any other sections reasonably requested) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading has been requested by Lender and has not been provided by Borrower and shall be applicable based on information previously provided by Borrower or its Affiliates if Borrower does not provide such requested indemnification certificate.

(c) In connection with filings under the Exchange Act or any information provided to holders of Securities on an ongoing basis, Borrower agrees to indemnify (i) Lender and the Issuer Group for Losses to which Lender or the Issuer Group may become subject insofar as the Securities Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in light of the circumstances under which they were made not misleading and (ii) reimburse Lender or the Issuer Group for any legal or other expenses reasonably incurred by Lender or the Issuer Group in connection with defending or investigating the Securities Liabilities.

(d) Promptly after receipt by an indemnified party under this Section 13.5 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 13.5, notify the indemnifying party in writing of the commencement thereof, but the omission to so notify the indemnifying party will not relieve the indemnifying party from any liability which the indemnifying party may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the indemnifying party. In the event that any action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. After notice from the indemnifying party to such indemnified party under this Section 13.5 the indemnifying party shall be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there are any legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. The indemnifying party shall not be liable for the expenses of more than one such separate counsel unless an indemnified party shall have

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reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to another indemnified party.

(e) In order to provide for just and equitable contribution in circumstances in which the indemnity agreements provided for in Section 13.5(c) or Section 13.5(d) is or are for any reason held to be unenforceable by an indemnified party in respect of any losses, claims, damages or liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 13.5(c) or Section 13.5(d), the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages or liabilities (or action in respect

thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified party's and Borrower's relative knowledge and access to information concerning the matter with respect to which claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. Lender and Borrower hereby agree that it would not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

(f) The liabilities and obligations of Borrower, and Lender under this Section 13.5 shall survive the satisfaction of this Agreement and the satisfaction and discharge of the Debt.

#### SECTION 13.6. INTENTIONALLY DELETED

### ARTICLE 14 INDEMNIFICATIONS

#### SECTION 14.1. GENERAL INDEMNIFICATION

Borrower shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Applicable Legal Requirements; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (f) the holding or investing of the Reserve Accounts or the performance of the Required Work, or Additional Replacements, or (g) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan (collectively, the "INDEMNIFIED LIABILITIES"); provided, however, that Borrower shall not have any obligation to Lender hereunder to the extent that such

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Indemnified Liabilities arise from the gross negligence, illegal acts, fraud or willful misconduct of Lender. To the extent that the undertaking to indemnify, defend and hold harmless set forth in the preceding sentence may be unenforceable because it violates any law or public policy, Borrower shall pay the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Lender.

#### SECTION 14.2. MORTGAGE AND INTANGIBLE TAX INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of the Mortgage, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

#### SECTION 14.3. ERISA INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of 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 discretion) that Lender may incur, directly or indirectly, as a result of a default under Section 4.8 or Section 5.18 of this Agreement.

#### SECTION 14.4. SURVIVAL

The obligations and liabilities of Borrower under this Article 14 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage.

### ARTICLE 15 EXCULPATION

#### SECTION 15.1. EXCULPATION

(a) Except as otherwise provided herein or in the other Loan Documents, Lender shall not enforce the liability and obligation of Borrower or Borrower Principal, as applicable, to perform and observe the obligations contained herein or in the other Loan Documents by any action or proceeding wherein a money judgment shall be sought against Borrower or Borrower Principal, except that Lender may bring a foreclosure action, action for specific performance or other appropriate action or proceeding to enable Lender to enforce and realize upon this Agreement, the Note, the Mortgage and the other Loan Documents, and the interest in the Property, the Rents and any other collateral given to Lender created by this Agreement, the Note, the Mortgage and the other Loan Documents; provided, however, that any judgment in any such action or proceeding shall be enforceable against Borrower only to the extent of Borrower's interest in the Property, in the Rents and in any other collateral given to Lender. Lender, by accepting this Agreement, the Note, the Mortgage and the other Loan Documents, agrees that it

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shall not, except as otherwise provided in this Section 15.1, sue for, seek or demand any deficiency judgment against Borrower or Borrower Principal in any such action or proceeding, under or by reason of or under or in connection with this Agreement, the Note, the Mortgage or the other Loan Documents. The provisions of this Section 15.1 shall not, however, (i) constitute a waiver, release or impairment of any obligation evidenced or secured by this Agreement, the Note, the Mortgage or the other Loan Documents; (ii) impair the right of Lender to name Borrower or Borrower Principal as a party defendant in any action or suit for judicial foreclosure and sale under this Agreement and the Mortgage; (iii) affect the validity or enforceability of any indemnity (including, without limitation, those contained in Section 12.6, with respect to Borrower or Borrower Principal, Section 13.5, with respect to Borrower, and Article 14 of this Agreement, with respect to Borrower), guaranty, master lease or similar instrument made in connection with this Agreement, the Note, the Mortgage and the other Loan Documents; (iv) impair the right of Lender to obtain the appointment of a receiver; (v) impair the enforcement of the assignment of leases provisions contained in the Mortgage; or (vi) impair the right of Lender to obtain a deficiency judgment or other judgment on the Note against Borrower or Borrower Principal if necessary to obtain any Insurance Proceeds or Awards to which Lender would otherwise be entitled under this Agreement; provided however, Lender shall only enforce such judgment to the extent of the Insurance Proceeds and/or Awards.

(b) Notwithstanding the provisions of this Section 15.1 to the contrary:

(1) Borrower and Borrower Principal shall be personally liable to Lender on a joint and several basis for Losses due to:

(i) fraud or intentional misrepresentation by Borrower, Borrower Principal or any other Affiliate of Borrower or Borrower Principal in connection with the execution and the delivery of this Agreement, the Note, the Mortgage, any of the other Loan Documents, or any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the closing of the Loan or during the term of the Loan;

(ii) Borrower's misapplication or misappropriation of Rents received by Borrower after the occurrence and during the continuance of an Event of Default;

(iii) Borrower's misapplication or misappropriation of tenant security deposits or Rents collected in advance and which have not been applied to the operation of the Property;

(iv) the misapplication or the misappropriation of Insurance Proceeds or Awards;

(v) Borrower's failure to pay Taxes, Other Charges (except to the extent that sums sufficient to pay such amounts have been deposited in escrow with Lender pursuant to the terms hereof and there exists no impediment to Lender's utilization thereof) beyond any applicable notice and cure periods specified therein;

(vi) any act of actual intentional physical waste or arson by Borrower, any principal, Affiliate, member or general partner thereof or by Borrower Principal, any principal, Affiliate, member or general partner thereof; or

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(vii) the portion of any Rent paid by any Tenant more than thirty (30) days in advance that would have been payable by such Tenant from and after the occurrence of an Event of Default; and

(2) Borrower Principal shall be personally liable to Lender for Losses due to the Property, or any part thereof, becoming an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding. Additionally, Borrower Principal shall be personally liable to Lender for Losses in the event of a breach by Borrower or SPE Component Entity of any of the covenants set forth in Article 6, except to the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d).

(c) Notwithstanding the foregoing, the agreement of Lender not to pursue recourse liability as set forth in subsection (a) above SHALL BECOME NULL AND VOID and shall be of no further force and effect and the Debt shall become fully recourse (1) to Borrower and Borrower Principal, jointly and severally, in the event of a breach of any of the covenants set forth in Article 7 hereof and (2) to Borrower in the event (i) of a breach by Borrower or SPE Component Entity of any of the covenants set forth in Article 6, except the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d) hereof or (ii) the Property or any part thereof shall become an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or

have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding.

(d) Nothing herein shall be deemed to be a waiver of any right which Lender may have under Section 506(a), 506(b), 1111(b) or any other provision of the U.S. Bankruptcy Code to file a claim for the full amount of the indebtedness secured by the Mortgage or to require that all collateral shall continue to secure all of the indebtedness owing to Lender in accordance with this Agreement, the Note, the Mortgage or the other Loan Documents.

ARTICLE 16  
NOTICES

SECTION 16.1. NOTICES

All notices, consents, approvals and requests required or permitted hereunder or under any other Loan Document shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested, (b) expedited prepaid overnight delivery service, either commercial or United States Postal Service, with proof of attempted delivery, or by (c) telecopier (with answer back acknowledged provided an additional notice is given pursuant to subsection (b) above), addressed as follows (or at such other address and Person as shall be designated from time to

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time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for in this Section):

If to Lender:	To the Lender notice addresses set forth on Schedule 1, attached hereto.
If to Borrower:	c/o Manufactured Home Communities, Inc. Two North Riverside Plaza, Suite 800 Chicago, Illinois 60606 Attention: President Facsimile No.: (312) 279-1710
With a copy to:	c/o Manufactured Home Communities, Inc. Two North Riverside Plaza, Suite 800 Chicago, Illinois 60606 Attention: General Counsel Facsimile No.: (312) 279-1715
and to:	Katten Muchin Zavis Rosenman 525 West Monroe Street, Suite 1600 Chicago, Illinois 60661 Attention: Daniel J. Perlman, Esq. Facsimile No.: (312) 902-1061

A notice shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day; or in the case of expedited prepaid delivery and telecopy, upon the first attempted delivery on a Business Day.

ARTICLE 17  
FURTHER ASSURANCES

SECTION 17.1. REPLACEMENT DOCUMENTS

Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in



lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

#### SECTION 17.2. RECORDING OF MORTGAGE, ETC.

Borrower forthwith upon the execution and delivery of the Mortgage and thereafter, from time to time, will cause the Mortgage and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect

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the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Mortgage, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Mortgage, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

#### SECTION 17.3. FURTHER ACTS, ETC.

Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, deeds of trust, mortgages, assignments, security agreements, control agreements, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Agreement or for filing, registering or recording the Mortgage, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements and financing statement amendments to evidence more effectively, perfect and maintain the priority of the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation, such rights and remedies available to Lender pursuant to this Section 17.3.

#### SECTION 17.4. CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP LAWS

(a) If any law is enacted or adopted or amended after the date of this Agreement which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable without any prepayment premium.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of

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the Property, or any part thereof, for real estate tax purposes by reason of the Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable without any prepayment premium.

If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Mortgage, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

#### SECTION 17.5. EXPENSES

Borrower covenants and agrees to pay or, if Borrower fails to pay, to reimburse, Lender upon receipt of written notice from Lender for all reasonable costs and expenses (including reasonable, actual attorneys' fees and disbursements reasonably incurred by Lender in accordance with this Agreement in connection with (a) the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby and all the costs of furnishing all opinions by counsel for Borrower (including without limitation any opinions requested by Lender as to any legal matters arising under this Agreement or the other Loan Documents with respect to the Property); (b) Borrower's ongoing performance of and compliance with Borrower's respective agreements and covenants contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date, including, without limitation, confirming compliance with environmental and insurance requirements; (c) following a request by Borrower, Lender's ongoing performance and compliance with all agreements and conditions contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date; (d) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Agreement and the other Loan Documents and any other documents or matters requested by Lender; (e) securing Borrower's compliance with any requests made pursuant to the provisions of this Agreement; (f) the filing and recording fees and expenses, title insurance and reasonable fees and expenses of counsel for providing to Lender all required legal opinions, and other similar expenses incurred in creating and perfecting the Lien in favor of Lender pursuant to this Agreement and the other Loan Documents; (g) enforcing or preserving any rights, in response to third party claims or the prosecuting or defending of any action or proceeding or other litigation, in each case against, under or affecting Borrower, this Agreement, the other Loan Documents, the Property, or any other security given for the Loan; and (h) enforcing any obligations of or collecting any payments due from Borrower under this Agreement, the other Loan Documents or with respect to the Property or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or of any insolvency or bankruptcy proceedings; provided, however, that Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of Lender.

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SECTION 18.1. REMEDIES CUMULATIVE; WAIVERS

The rights, powers and remedies of Lender under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which Lender may have against Borrower or Borrower Principal pursuant to this Agreement or the other Loan Documents, or existing at law or in equity or otherwise. Lender's rights, powers and remedies may be pursued singularly, concurrently or otherwise, at such time and in such order as Lender may determine in Lender's sole discretion. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

SECTION 18.2. MODIFICATION, WAIVER IN WRITING

No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, or of the Note, or of any other Loan Document, nor consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on Borrower, shall entitle Borrower to any other or future notice or demand in the same, similar or other circumstances.

SECTION 18.3. DELAY NOT A WAIVER

Neither any failure nor any delay on the part of Lender in insisting upon strict performance of any term, condition, covenant or agreement, or exercising any right, power, remedy or privilege hereunder, or under the Note or under any other Loan Document, or any other instrument given as security therefor, shall operate as or constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other future exercise, or the exercise of any other right, power, remedy or privilege. In particular, and not by way of limitation, by accepting payment after the due date of any amount payable under this Agreement, the Note or any other Loan Document, Lender shall not be deemed to have waived any right either to require prompt payment when due of all other amounts due under this Agreement, the Note or the other Loan Documents, or to declare a default for failure to effect prompt payment of any such other amount.

SECTION 18.4. TRIAL BY JURY

BORROWER, BORROWER PRINCIPAL AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH

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REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER, BORROWER PRINCIPAL AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER, BORROWER PRINCIPAL AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER, BORROWER PRINCIPAL AND LENDER.

SECTION 18.5. WAIVER OF NOTICE

Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Agreement or the other Loan Documents specifically and expressly provide for the giving of notice by

Lender to Borrower and except with respect to matters for which Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Agreement or the other Loan Documents do not specifically and expressly provide for the giving of notice by Lender to Borrower.

SECTION 18.6. REMEDIES OF BORROWER

In the event that a claim or adjudication is made that Lender or its agents have acted unreasonably or unreasonably delayed acting in any case where by law or under this Agreement or the other Loan Documents, Lender or such agent, as the case may be, has an obligation to act reasonably or promptly, Borrower agrees that neither Lender nor its agents shall be liable for any monetary damages, and Borrower's sole remedies shall be limited to commencing an action seeking injunctive relief or declaratory judgment. The parties hereto agree that any action or proceeding to determine whether Lender has acted reasonably shall be determined by an action seeking declaratory judgment. Lender agrees that, in such event, it shall cooperate in expediting any action seeking injunctive relief or declaratory judgment.

SECTION 18.7. WAIVER OF MARSHALLING OF ASSETS

To the fullest extent permitted by law, Borrower, for itself and its successors and assigns, waives all rights to a marshalling of the assets of Borrower, Borrower's partners and others with interests in Borrower, and of the Property, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of the Property for the collection of the Debt without any prior or different resort for collection or of the right of Lender to the payment of the Debt out of the net proceeds of the Property in preference to every other claimant whatsoever.

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SECTION 18.8. WAIVER OF STATUTE OF LIMITATIONS

Borrower hereby expressly waives and releases, to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

SECTION 18.9. WAIVER OF COUNTERCLAIM

Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Lender or its agents.

ARTICLE 19  
GOVERNING LAW

SECTION 19.1. CHOICE OF LAW

This Agreement shall be deemed to be a contract entered into pursuant to the laws of the State of New York and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of New York, provided however, (a) that with respect to the creation, perfection, priority and enforcement of any Lien created by the Loan Documents, and the determination of deficiency judgments, the laws of the state where the Property is located shall apply, and (b) with respect to the security interest in each of the Reserve Accounts and the Lockbox Account, the laws of the state where each such account is located shall apply.

SECTION 19.2. SEVERABILITY

Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

#### SECTION 19.3. PREFERENCES

Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by Borrower to any portion of the obligations of Borrower hereunder. To the extent Borrower makes a payment or payments to Lender, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Creditors Rights Laws, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the obligations hereunder or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by Lender.

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### ARTICLE 20 MISCELLANEOUS

#### SECTION 20.1. SURVIVAL

This Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by Lender of the Loan and the execution and delivery to Lender of the Note, and shall continue in full force and effect so long as all or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth herein or in the other Loan Documents. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Agreement, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and assigns of Lender.

#### SECTION 20.2. LENDER'S DISCRETION

Whenever pursuant to this Agreement, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole discretion of Lender and shall be final and conclusive.

#### SECTION 20.3. HEADINGS

The Article and/or Section headings and the Table of Contents in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

#### SECTION 20.4. COST OF ENFORCEMENT

In the event (a) that the Mortgage is foreclosed in whole or in part, (b) of the bankruptcy, insolvency, rehabilitation or other similar proceeding in respect of Borrower or any of its constituent Persons or an assignment by Borrower or any of its constituent Persons for the benefit of its creditors, or (c) Lender exercises any of its other remedies under this Agreement or any of the other Loan Documents, Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including attorneys' fees and costs, incurred by Lender or Borrower in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, together with

all required service or use taxes.

SECTION 20.5. SCHEDULES INCORPORATED

The Schedules annexed hereto are hereby incorporated herein as a part of this Agreement with the same effect as if set forth in the body hereof.

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SECTION 20.6. OFFSETS, COUNTERCLAIMS AND DEFENSES

Any assignee of Lender's interest in and to this Agreement, the Note and the other Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to such documents which Borrower may otherwise have against any assignor of such documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Borrower in any action or proceeding brought by any such assignee upon such documents and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Borrower.

SECTION 20.7. NO JOINT VENTURE OR PARTNERSHIP; NO THIRD PARTY BENEFICIARIES

(a) Borrower and Lender intend that the relationships created hereunder and under the other Loan Documents be solely that of borrower and lender. Nothing herein or therein is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender nor to grant Lender any interest in the Property other than that of mortgagee, beneficiary or lender.

(b) This Agreement and the other Loan Documents are solely for the benefit of Lender and Borrower and nothing contained in this Agreement or the other Loan Documents shall be deemed to confer upon anyone other than Lender and Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so.

(c) The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

(d) Notwithstanding anything to the contrary contained herein, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(e) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Agreement, the Mortgage, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or

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effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

(f) Borrower recognizes and acknowledges that in accepting this Agreement, the Note, the Mortgage and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the representations and warranties set forth in Article 4 of this Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Agreement, the Note, the Mortgage and the other Loan Documents in the absence of the warranties and representations as set forth in Article 4 of this Agreement.

#### SECTION 20.8. PUBLICITY

All news releases, publicity or advertising by Borrower or its Affiliates through any media intended to reach the general public which refers to the Loan, Lender, Banc of America Securities LLC, or any of their Affiliates shall be subject to the prior written approval of Lender, not to be unreasonably withheld, provided however, that Lender's consent shall not be required in connection with any such news releases, publicity or advertising by Borrower or its Affiliates to the extent Borrower or its Affiliates are required to make such news releases pursuant to applicable Legal Requirements. Lender shall be permitted to make any news, releases, publicity or advertising by Lender or its Affiliates through any media intended to reach the general public which refers to the Loan, the Property, Borrower, Borrower Principal and their respective Affiliates without the approval of Borrower or any such Persons. Borrower also agrees that Lender may share any information pertaining to the Loan with Bank of America Corporation, including its bank subsidiaries, Banc of America Securities LLC and any other Affiliates of the foregoing, in connection with the sale or transfer of the Loan or any Participations and/or Securities created. In the event of a conflict between any of the provisions of this Section 20.8 and paragraph 5 of the Advisory Agreement, the applicable provisions of the Advisory Agreement shall control.

#### SECTION 20.9. CONFLICT; CONSTRUCTION OF DOCUMENTS; RELIANCE

In the event of any conflict between the provisions of this Agreement and any of the other Loan Documents, the provisions of this Agreement shall control. The parties hereto acknowledge that they were represented by competent counsel in connection with the negotiation, drafting and execution of the Loan Documents and that such Loan Documents shall not be subject to the principle of construing their meaning against the party which drafted same. Borrower acknowledges that, with respect to the Loan, Borrower shall rely solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Lender or any parent, subsidiary or Affiliate of Lender. Lender shall not be subject to any limitation whatsoever in the exercise of any rights or remedies available to it under any of the Loan Documents or any other agreements or instruments which govern the Loan by virtue of the ownership by it or any parent, subsidiary or Affiliate of Lender of any equity interest any of them may acquire in Borrower, and Borrower hereby irrevocably waives the right to raise any defense or take any action on the basis of the

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foregoing with respect to Lender's exercise of any such rights or remedies. Borrower acknowledges that Lender engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Borrower or its Affiliates.

SECTION 20.10. ENTIRE AGREEMENT

This Agreement and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written between Borrower and Lender are superseded by the terms of this Agreement and the other Loan Documents.

SECTION 20.11. TAX DISCLOSURE

Notwithstanding anything herein to the contrary, except as reasonably necessary to comply with applicable securities laws, each party (and each employee, representative or other agent of each party) hereto may disclose to any and all persons, without limitation of any kind, any information with respect to the United States federal income "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are provided to such parties (or their representatives) relating to such tax treatment and tax structure; provided that with respect to any document or similar item that in either case contains information concerning the tax treatment or tax structure of the transaction as well as other information, this sentence shall only apply to such portions of the document or similar item that relate to the United States federal income tax treatment or tax structure of the transactions contemplated hereby.

SECTION 20.12. EXECUTION BY BORROWER PRINCIPAL

Borrower Principal is executing this Agreement solely for the purpose of (a) making the representations and warranties applicable to Borrower Principal contained in Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31, 4.39, and 4.40 of this Agreement, and (b) agreeing to the terms, covenants and conditions applicable to Borrower Principal contained in Sections 9.8, 12.6, 13.4, 15.1(b), 15.1(c), 18.4, and 18.10.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

BORROWER:

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BORROWER PRINCIPAL:

Acknowledged and agreed to with respect to its obligations set forth in Section 20.12 hereof:

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LENDER:



[BANK OF AMERICA, N.A.,] [MORGAN STANLEY  
MORTGAGE CAPITAL INC.] [WELLS FARGO BANK,  
NATIONAL ASSOCIATION]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[[LOCKBOX BANK:]]

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ACKNOWLEDGED AND AGREED TO WITH RESPECT TO  
ITS OBLIGATIONS SET FORTH IN ARTICLE 10  
HEREOF:

\_\_\_\_\_, A  
\_\_\_\_\_

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

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EXHIBIT A

RENT DIRECTION LETTER

EXHIBIT B

BORROWER EQUITY OWNERSHIP STRUCTURE

EXHIBIT C [RELEASE PARCEL PROPERTIES ONLY]

(OUT PARCEL)

(see attached)

SCHEDULE 1

CREEKSIDE ESTATES

ELIGIBLE INSTITUTION: Bank of America, N.A.

LOCKBOX BANK: Bank of America, N.A.

OPERATING LEASE: Not Applicable

PRINCIPAL AMOUNT OF NOTE: \$3,760,000

NOTE RATE: 6.327%

MATURITY DATE (SECTION 2.2(b)): 11/01/2015

MONTHLY PAYMENT AMOUNT (SECTION 2.2(b)): \$23,229.59

PAYMENT ADDRESS (SECTION 2.2(d)):

SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD (SECTION 2.4(b) AND SECTION 2.5): the fourth (4th) anniversary of the first Scheduled Payment Date

BORROWER ORGANIZATIONAL IDENTIFICATION NUMBER (SECTION 4.2):

LENDER NOTICE ADDRESS (SECTION 16.1):

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SCHEDULE 2

REQUIRED REPAIRS

(see attached)

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SCHEDULE 3

BORROWER ACCOUNT

SCHEDULE 4

(ADVISORY AGREEMENT)

The Manufactured Home Communities, Inc. (the "Company") agrees that all advice given by Banc of America Securities LLC ("BAS") in connection with its engagement hereunder is for the benefit and use of the Company in considering its strategic situation and that no such advice shall be used for any other purpose or be disclosed, reproduced, disseminated, quoted or referred to at any time, in any manner or for any purpose, nor shall any public references to BAS be made by or on behalf of the Company, in each case without BAS' prior written consent, which consent shall not be unreasonably withheld. BAS agrees to maintain the confidentiality of the confidential or proprietary information ("Confidential Information") provided by the Company to BAS in connection with this engagement and to utilize or disclose the Confidential Information only in connection with the activities and transactions contemplated by this letter agreement (the "Permitted Use"). BAS shall only disclose the Confidential Information (i) to its employees, officers, agents, advisors and other representatives (collectively, its "Representatives") who need to know such Confidential Information in connection with the Permitted Use or (ii) as required by law, regulation or legal, governmental or regulatory process but only after, in the case of this clause (iii), notice to the Company, unless such notice is prohibited by law, regulation or legal, governmental or regulatory process. Notwithstanding the foregoing, the following will not constitute Confidential Information: (i) information which was already known to BAS prior to its disclosure by the Company; (ii) information which is obtained by the BAS from a third party who is not known by the BAS to be prohibited from disclosing the information to the BAS by a contractual, legal or fiduciary obligation to the Company; (iii) information which is or becomes publicly available (other than as a result of disclosure by the BAS in violation of this paragraph); and (iv) information which is independently developed, discovered or arrived at by the BAS or any of its Representatives without use of Confidential Information. BAS shall be liable for any breach of the provisions of this paragraph by its Representatives. The obligations related to Confidential Information contained in this paragraph shall terminate two years from the date of this letter agreement and will survive any earlier termination of this letter agreement. Notwithstanding anything to the contrary contained herein, BAS and the Company shall be permitted to disclose the tax treatment and tax structure of any strategic alternative (including any materials, opinions or analyses relating to such tax treatment or tax structure, but without disclosure of identifying information or, except to the extent relating to such tax structure or tax

treatment, any nonpublic commercial or financial information) on and after the earliest to occur of the date of (i) public announcement of discussions relating to such strategic alternative, (ii) public announcement of such strategic alternative or (iii) execution of a definitive agreement (with or without conditions) to enter into such strategic alternative; provided, however, that if such strategic alternative is not consummated for any reason, the provisions of this sentence shall cease to apply with respect to such strategic alternative.

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SCHEDULE 4.5

(LITIGATION)

NONE

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## Schedule Identifying Substantially Identical Agreements to Exhibit No. 10.47.

Various subsidiaries of the Company each entered into a loan agreement which is substantially identical to the loan agreement filed under Exhibit 10.47. The following table lists the borrower, lender and loan amount which differs from that in exhibit 10.47 for each of the 18 loan agreements.

Borrower -----	Lender -----	Loan Amount -----
MHC All Seasons, L.L.C.	Bank of America, N.A.	\$ 3,490,811
MHC Aspen Meadows, L.L.C.	Bank of America, N.A.	\$ 5,620,224
MHC Bear Creek Village, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$ 4,880,000
MHC Coralwood Limited Partnership	Bank of America, N.A.	\$ 6,200,000
MHC Desert Skies, L.L.C.	Bank of America, N.A.	\$ 5,045,646
MHC Falcon Wood Village, L.L.C.	Wells Fargo Bank, National Association	\$ 5,200,000
MHC Highlands/Brentwood, L.L.C.	Bank of America, N.A.	\$ 10,909,718
MHC Lake Fairways, L.L.C.	Bank of America, N.A.	\$ 30,460,183
MHC Lakewood Village, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$ 9,817,893
MHC Mariner's Cove, L.L.C.	Bank of America, N.A.	\$ 16,452,380
MHC McNicol Place, L.L.C.	Bank of America, N.A.	\$ 2,710,354
MHC Oak Bend, L.L.C.	Bank of America, N.A.	\$ 5,772,214
MHC Rancho Mesa Limited Partnership	Bank of America, N.A.	\$ 9,600,000
MHC Shadowbrook, L.L.C.	Bank of America,	
N.A.	\$ 6,320,000	
MHC Sweetbriar, L.L.C.	Bank of America, N.A.	\$ 3,040,000
MHC Waterford Estates, L.L.C.	Bank of America, N.A.	\$ 30,953,930
MHC Whispering Palms, L.L.C.	Bank of America, N.A.	\$ 3,219,209
MHC Whispering Pines, L.L.C.	Bank of America, N.A.	\$ 9,870,562

LOAN AGREEMENT

Dated as of October 17, 2003

Between

MHC GOLF VISTA ESTATES, L.L.C.,

as Borrower

and

BANK OF AMERICA, N.A.,

as Lender

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## LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of October 17, 2003 (as amended, restated, replaced, supplemented or otherwise modified from time to time, this "AGREEMENT"), between BANK OF AMERICA, N.A., having an address at Bank of America Corporate Center, 214 North Tryon Street, Charlotte, North Carolina 28255 (together with its successors and/or assigns, "LENDER") and MHC GOLF VISTA ESTATES, L.L.C., a Delaware limited liability company having an address at c/o Manufactured Home Communities, Inc., Two North Riverside Plaza, Suite 800, Chicago, Illinois 60606 (together with its successors and/or assigns, "BORROWER").

### RECITALS:

Borrower desires to obtain the Loan (defined below) from Lender.

Lender is willing to make the Loan to Borrower, subject to and in accordance with the terms of this Agreement and the other Loan Documents (defined below).

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

### ARTICLE 1 DEFINITIONS; PRINCIPLES OF CONSTRUCTION

#### SECTION 1.1. DEFINITIONS

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

"ACCEPTABLE ACCOUNTANT" shall mean a "Big Four" accounting firm or other independent certified public accountant acceptable to Lender.

"ACQUIRED PROPERTY" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACQUIRED PROPERTY STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"ACT" shall have the meaning set forth in Section 6.1(c) hereof.

"ACT OF TERROR" shall have the meaning set forth in Section 9.8 hereof.

"ADVISORY AGREEMENT" shall have the meaning set forth in Section 13.3 hereof.

"AFFILIATE" shall mean, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person or of an Affiliate of such Person.

"AFFILIATED LOANS" shall mean a loan made by Lender to a parent,



subsidiary or such other entity affiliated with Borrower or Borrower Principal.

"AFFILIATED MANAGER" shall have the meaning set forth in Section 7.1 hereof.

"AFFILIATE TRANSFER PORTION OF THE PROPERTY" shall have the meaning set forth in Section 7.7 hereof.

"AFFILIATE TRANSFEREE" shall have the meaning set forth in Section 7.7 hereof.

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

"ALTERATION THRESHOLD" means five percent (5%) of the original principal amount of the Loan.

"ANNEX" shall have the meaning set forth in Section 4.40 hereof.

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

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

"BORROWER ACCOUNT" shall have the meaning set forth on Schedule 3 attached hereto.

"BORROWER PRINCIPAL" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"BORROWER PRINCIPAL AFFILIATE" shall mean an entity Controlled by Borrower Principal and in which Borrower Principal owns directly or indirectly, at least a 51% interest.

"BUSINESS DAY" shall mean a day on which Lender is open for the conduct of substantially all of its banking business at its office in the city in which the Note is payable (excluding Saturdays and Sundays).

"CASH MANAGEMENT ACCOUNT" shall have the meaning set forth in Section 10.1(a) hereof.

"CASH MANAGEMENT PERIOD" shall mean the existence and continuance of an Event of Default.

"CASUALTY" shall have the meaning set forth in Section 8.2.

"CLOSING DATE" shall mean the date of the funding of the Loan.

"CONSTANT MONTHLY PAYMENT AMOUNT" shall mean the monthly payment of interest and principal due on each Scheduled Payment Date as set forth in Section 2.2(b) hereof.

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"CONTROL" shall have the meaning set forth in Section 7.1 hereof.

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

"CONDEMNATION PROCEEDS" shall have the meaning set forth in Section 8.4(b).

"CREDITORS RIGHTS LAWS" shall mean with respect to any Person any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

"DEBT" shall mean the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, this Agreement, the Mortgage or any other Loan Document.

"DEBT SERVICE" shall mean, with respect to any particular period of time, scheduled principal and/or interest payments under the Note.

"DEBT SERVICE COVERAGE RATIO" shall mean, as of any date of determination, for the applicable period of calculation, the ratio, as determined by Lender, of (i) Net Operating Income to (ii) the aggregate amount of Debt Service which would be due for the same period. The Debt Service Coverage Ratio shall be determined by Lender at the end of each calendar quarter throughout the term of the Loan.

"DEFEASED NOTE" shall have the meaning set forth in Section 2.4(c)(i)(D) hereof.

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

"DEFAULT RATE" shall mean, with respect to the Loan, a rate per annum equal to the lesser of (a) the maximum rate permitted by applicable law, or (b) four percent (4%) above the Note Rate.

"DEFEASANCE COLLATERAL" shall have the meaning set forth in Section 2.4(b)(i)(D)(2) hereof.

"DEFEASANCE SECURITY AGREEMENT" shall have the meaning set forth in Section 2.4(b)(i)(D)(2) hereof.

"DISCLOSURE DOCUMENT" shall have the meaning set forth in Section 13.5 hereof.

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

"ELIGIBLE INSTITUTION" shall mean either (i) the entity set forth on Schedule 1, attached hereto or (ii) a depository institution or trust company insured by the Federal Deposit Insurance Corporation, the short term unsecured debt obligations or commercial paper of which are rated at least "A-1+" by S&P, "P-1" by Moody's and "F-1+" by Fitch in the case of accounts in which funds are held for thirty (30) days or less (or, in the case of accounts in which funds are held for more than thirty (30) days, the long term unsecured debt

obligations of which are rated at least "AA" by Fitch and S&P and "Aa2" by Moody's).

"EMBARGOED PERSON" shall have the meaning set forth in Section 4.39.

"ENVIRONMENTAL INDEMNITY" shall mean, in the event such indemnity was executed in connection with the closing of the Loan, an Environmental Indemnity Agreement, dated as of the date hereof, executed by Borrower and Borrower Principal in connection with the Loan for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"ENVIRONMENTAL LAW" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL LIENS" shall have the meaning set forth in Section 12.5 hereof.

"ENVIRONMENTAL PROBLEM" shall have the meaning set forth in Section 12.6 hereof.

"ENVIRONMENTAL REPORT" shall have the meaning set forth in Section 12.5 hereof.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time and any successor statutes thereto and applicable regulations issued pursuant thereto in temporary or final form.

"EVENT OF DEFAULT" shall have the meaning set forth in Section 11.1 hereof.

"EXCHANGE ACT" shall mean the Securities and Exchange Act of 1934, as amended.

"EXCHANGE ACT FILING" shall have the meaning set forth in Section 5.11(c) hereof.

"EXCESS CASH RESERVE ACCOUNT" shall have the meaning set forth in Section 9.7 hereof.

"EXCESS CASH RESERVE FUNDS" shall have the meaning set forth in Section 9.7 hereof.

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"FITCH" shall mean Fitch, Inc.

"GAAP" shall mean generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

"GOLF COURSE OPERATION" shall have the meaning set forth in Section 5.23 hereof.

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

"HAZARDOUS MATERIALS" shall have the meaning set forth in Section 12.5 hereof.

"IMPROVEMENTS" shall have the meaning set forth in the granting clause of the Mortgage.

"INDEMNIFIED PARTIES" shall mean (a) Lender, (b) any prior owner or holder of the Loan or Participations in the Loan, (c) any servicer or prior

servicer of the Loan, (d) any Investor or any prior Investor in any Securities, (e) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any Investor or other third party, (f) any receiver or other fiduciary appointed in a foreclosure or other Creditors Rights Laws proceeding, (g) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (h) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties' assets and business), in all cases whether during the term of the Loan or as part of or following a foreclosure of the Mortgage.

"INDEPENDENT DIRECTOR" shall have the meaning set forth in Section 6.4(a).

"INSOLVENCY OPINION" shall mean a bankruptcy non-consolidation opinion, which such opinion shall be provided by outside counsel acceptable to Lender and, if the Loan has been securitized, the Rating Agencies and shall otherwise be in form, scope and substance acceptable to Lender and, if the Loan has been securitized, the Rating Agencies.

"INSURANCE CERTIFICATES" shall have the meaning set forth in Section 8.1 hereof.

"INSURANCE PREMIUMS" shall have the meaning set forth in Section 8.1(b) hereof.

"INSURANCE PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

"INTEREST SHORTFALL" shall have the meaning set forth in Section 2.4(h) hereof.

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

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"INVESTOR" shall have the meaning set forth in Section 13.3 hereof.

"I/O MONTHLY PAYMENT AMOUNT" shall have the meaning set forth in Section 2.2(b) hereof.

"ISSUER GROUP" shall have the meaning set forth in Section 13.5(b) hereof.

"ISSUER PERSON" shall have the meaning set forth in Section 13.5(b) hereof.

"LAUNDRY LEASE" shall have the meaning set forth in Section 4.25 hereof.

"LEASE" shall have the meaning set forth in the Mortgage.

"LEGAL REQUIREMENTS" shall mean all statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Property or any part thereof, or the construction, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses, authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting the Property or any part thereof, including, without limitation, any which may (a) require repairs, modifications or alterations in or to the

Property or any part thereof, or (b) in any way limit the use and enjoyment thereof.

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

"LLC AGREEMENT" shall have the meaning set forth in Section 6.1(c).

"LOAN" shall mean the loan made by Lender to Borrower pursuant to this Agreement.

"LOAN DOCUMENTS" shall mean, collectively, this Agreement, the Note, the Mortgage, the Environmental Indemnity, (if applicable) the Assignment of Management Agreement, the Lockbox Agreement, and any and all other documents, agreements and certificates executed and/or delivered in connection with the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"LOCKBOX ACCOUNT" shall mean an Eligible Account established pursuant to the Lockbox Agreement for deposit of all Rents and other receipts from the Property.

"LOCKBOX AGREEMENT" shall mean that certain lockbox account, deposit account or restricted account agreement among Borrower, Lender and Lockbox Bank providing for, among other things, control of the Lockbox Account.

"LOCKBOX BANK" shall have the meaning set forth on Schedule 1, attached hereto.

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"LOCKOUT PERIOD" shall mean the period commencing on the date hereof and ending on the date which is three (3) months prior to the Maturity Date.

"LOSSES" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to reasonable legal fees and other costs of defense).

"MAJOR LEASE" shall mean as to the Property (i) any Lease (other than a mobile home or recreational vehicle pad lease) which, individually or when aggregated with all other leases at the Property with the same Tenant or its Affiliate, either (A) accounts for five percent (5%) or more of the Property's aggregate Net Operating Income, or (B) demises 5,000 square feet or more of the Property's gross leasable area, (ii) any Lease which provides the Tenant thereunder any option, offer, right of first refusal or other similar entitlement to acquire all or any portion of the Property except to the extent rights of first refusal are provided to (A) Tenants occupying the Property under pad leases or (B) a homeowner's association, each solely as a result of applicable Legal Requirements, (iii) any Operating Lease or commercial Lease or (iv) any instrument guaranteeing or providing credit support for any Lease meeting the requirements of (i), (ii) or (iii) above.

"MANAGEMENT AGREEMENT" shall mean the management agreement entered into by and between Borrower and Manager, pursuant to which Manager is to provide management and other services with respect to the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified in accordance with the terms of this Agreement.

"MANAGER" shall mean (i) MHCOP, (ii) MHC, (iii) any entity under the Control of either MHCOP or MHC or (iv) such other entity selected as the manager of the Property in accordance with the terms of this Agreement.

"MATURITY DATE" shall have the meaning set forth on Schedule 1, attached hereto.

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

"MEMBER" shall have the meaning set forth in Section 6.1(c) hereof.

"MHC" shall mean Manufactured Home Communities, Inc., a Maryland corporation.

"MHCOP" shall mean MHC Operating Limited Partnership, an Illinois limited partnership.

"MHC SUBSIDIARY" shall have the meaning set forth in Section 7.3 hereof.

"MONTHLY PAYMENT AMOUNT" shall have the meaning set forth in Section 2.2(b) hereof.

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

"MORTGAGE" shall mean that certain first priority mortgage/deed of trust/deed to secure debt and security agreement dated the date hereof, executed and delivered by Borrower as security for the Loan and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NET OPERATING INCOME" shall mean, with respect to any period of time, the amount obtained by subtracting Operating Expenses from Operating Income.

"NET PROCEEDS" shall have the meaning set forth in Section 8.4(b) hereof.

"NET PROCEEDS DEFICIENCY" shall have the meaning set forth in Section 8.4(b) (vi) hereof.

"NOTE" shall mean that certain promissory note of even date herewith in the principal amount set forth on Schedule 1, attached hereto, made by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"NOTE RATE" shall have the meaning set forth on Schedule 1, attached hereto.

"OFFERING DOCUMENT Date" shall have the meaning set forth in Section 5.11(c) (i) (D) hereof.

"OPERATING EXPENSES" shall mean, with respect to any period of time, the total of all expenses actually paid or payable, computed in accordance with GAAP, of whatever kind relating to the operation, maintenance and management of the Property, including without limitation, utilities, ordinary repairs and maintenance, Insurance Premiums, license fees, Taxes and Other Charges, advertising expenses, payroll and related taxes, computer processing charges, management fees equal to the greater of 4% of the Operating Income and the management fees actually paid under the Management Agreement, operational

equipment or other lease payments, normalized capital expenditures equal to \$50 per pad per annum, but specifically excluding depreciation and amortization, income taxes, Debt Service, any incentive fees due under the Management Agreement, any item of expense that in accordance with GAAP should be capitalized, any item of expense that would otherwise be covered by the provisions hereof but which is paid by any Tenant under such Tenant's Lease or other agreement directly to a third party other than Borrower, and deposits into the Reserve Accounts.

"OPERATING INCOME" shall mean, with respect to any period of time, all income, computed in accordance with GAAP, derived from the ownership and operation of the Property from whatever source, including, but not limited to, Rents (including percentage rents), utility charges, escalations, forfeited security deposits, interest on credit accounts, service fees or charges, license fees, parking fees, rent concessions or credits, and other required pass-throughs but excluding sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any Governmental Authority, refunds and uncollectible accounts, sales of furniture, fixtures and equipment, interest income from any source other than the escrow accounts, Reserve Accounts or other accounts required pursuant to the Loan Documents, Insurance Proceeds (other than business interruption or other loss of income insurance), Awards, unforfeited security

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deposits, utility and other similar deposits, income from Tenants (under Major Leases) not paying rent, income from tenants (under Major Leases) in bankruptcy, non-recurring or extraordinary income, including, without limitation lease termination payments, and any disbursements to Borrower from the Reserve Funds.

"OPERATING LEASE" shall have the meaning set forth on Schedule 1, attached hereto.

"ORIGINAL BORROWER" shall mean the entity that was Borrower under the Loan as of the Closing Date.

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

"OUT PARCEL" shall have the meaning set forth in Section 21.1 hereof.

"PARTICIPATIONS" shall have the meaning set forth in Section 13.1 hereof.

"PATRIOT ACT" shall have the meaning set forth in Section 4.40 hereof.

"PERMITTED ENCUMBRANCES" shall mean collectively, (a) the Lien and security interests created by the Loan Documents, (b) all Liens, encumbrances and other matters disclosed in the Title Insurance Policy, (c) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, (d) such other title and survey exceptions as Lender has approved or may approve in writing in Lender's reasonable discretion and (e) utility easements and other easements granted by Borrower in accordance with the terms and conditions set forth herein.

"PERMITTED INVESTMENTS" shall mean to the extent available from Lender or Lender's servicer for deposits in the Reserve Accounts and the Lockbox Account, any one or more of the following obligations or securities acquired at a purchase price of not greater than par, including those issued by a servicer of the Loan, the trustee under any securitization or any of their respective Affiliates, payable on demand or having a maturity date not later than the Business Day immediately prior to the date on which the funds used to acquire such investment are required to be used under this Agreement and meeting one of

the appropriate standards set forth below:

(a) obligations of, or obligations fully guaranteed as to payment of principal and interest by, the United States or any agency or instrumentality thereof provided such obligations are backed by the full faith and credit of the United States of America including, without limitation, obligations of: the U.S. Treasury (all direct or fully guaranteed obligations), the Farmers Home Administration (certificates of beneficial ownership), the General Services Administration (participation certificates), the U.S. Maritime Administration (guaranteed Title XI financing), the Small Business Administration (guaranteed participation certificates and guaranteed pool certificates), the U.S. Department of Housing and Urban Development (local authority bonds) and the Washington Metropolitan Area Transit Authority (guaranteed transit bonds); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) be rated

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"AAA" or the equivalent by each of the Rating Agencies, (iii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iv) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (v) such investments must not be subject to liquidation prior to their maturity;

(b) Federal Housing Administration debentures;

(c) obligations of the following United States government sponsored agencies: Federal Home Loan Mortgage Corp. (debt obligations), the Farm Credit System (consolidated systemwide bonds and notes), the Federal Home Loan Banks (consolidated debt obligations), the Federal National Mortgage Association (debt obligations), the Financing Corp. (debt obligations), and the Resolution Funding Corp. (debt obligations); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(d) federal funds, unsecured certificates of deposit, time deposits, bankers' acceptances and repurchase agreements with maturities of not more than 365 days of any bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(e) fully Federal Deposit Insurance Corporation-insured demand and time deposits in, or certificates of deposit of, or bankers' acceptances with maturities of not more than 365 days and issued by, any bank or trust company, savings and loan association or savings bank, the short term obligations of which at all times are rated in the highest short term rating category by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency in the highest short term rating category and otherwise acceptable



to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities); provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed

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spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(f) debt obligations with maturities of not more than 365 days and at all times rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest long-term unsecured rating category; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(g) commercial paper (including both non-interest-bearing discount obligations and interest-bearing obligations payable on demand or on a specified date not more than one year after the date of issuance thereof) with maturities of not more than 365 days and that at all times is rated by each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) in its highest short-term unsecured debt rating; provided, however, that the investments described in this clause must (i) have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (ii) if rated by S&P, must not have an "r" highlighter affixed to their rating, (iii) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (iv) such investments must not be subject to liquidation prior to their maturity;

(h) units of taxable money market funds or mutual funds, with maturities of not more than 365 days and which funds are regulated investment companies, seek to maintain a constant net asset value per share and invest solely in obligations backed by the full faith and credit of the United States, which funds have the highest rating available from each Rating Agency (or, if not rated by all Rating Agencies, rated by at least one Rating Agency and otherwise acceptable to each other Rating Agency, as confirmed in writing that such investment would not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities) for money market funds or mutual funds; and

(i) any other security, obligation or investment which has been approved as a Permitted Investment in writing by (i) Lender and (ii) each Rating Agency, as evidenced by a written confirmation that the designation of such security, obligation or investment as a Permitted Investment will not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned to the Securities by such Rating Agency;

provided, however, that no obligation or security shall be a Permitted

Investment if (A) such obligation or security evidences a right to receive only interest payments, (B) the right to receive principal and interest payments on such obligation or security are derived from an

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underlying investment that provides a yield to maturity in excess of one hundred twenty percent (120%) of the yield to maturity at par of such underlying investment or (C) such obligation or security has a remaining term to maturity in excess of one (1) year.

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

"PERSONAL PROPERTY" shall have the meaning set forth in the granting clause of the Mortgage.

"PHYSICAL CONDITIONS REPORT" shall mean a report prepared by a company satisfactory to Lender regarding the physical condition of the Property, satisfactory in form and substance to Lender in its sole discretion.

"POLICIES" shall have the meaning set forth in Section 8.1 hereof.

"PROHIBITED TRANSFER" shall have the meaning set forth in Section 7.2 hereof.

"PROPERTY" shall mean the parcel of real property, the Improvements thereon and all Personal Property owned by Borrower and encumbered by the Mortgage, together with all rights pertaining to such property and Improvements, as more particularly described in the granting clause of the Mortgage and referred to therein as the "Property".

"PROVIDED INFORMATION" shall have the meaning set forth in Section 13.4(a) hereof.

"QUALIFIED MANAGER" shall mean Manager or a reputable and experienced professional management organization (a) which manages, together with its affiliates, mobile home communities, exclusive of the Property containing, in the aggregate, at least one thousand five hundred (1,500) mobile home pads and/or recreational vehicle pads or (b) (i) approved by Lender, which approval shall not have been unreasonably withheld and (ii) for which Lender shall have received written confirmation from the Rating Agencies that the employment of such manager will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to be assigned in connection with a Securitization. In the event Manager is an Affiliated Manager, Borrower shall deliver to Lender a revised substantive non-consolidation opinion if one was delivered in connection with the closing of the Loan.

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

"REA" shall mean any construction, operation and reciprocal easement agreement or similar agreement (including any separate agreement or other agreement between Borrower and one or more other parties to an REA with respect to such REA) affecting the Property or portion thereof.

"RELEASE" shall have the meaning set forth in Section 12.5 hereof.

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"REMIC PROHIBITION PERIOD" shall have the meaning set forth in Section 2.4(b) (iv) hereof.

"REMIC TRUST" shall mean a "real estate mortgage investment conduit" (within the meaning of Section 860D, or applicable successor provisions, of the Code) that holds the Note.

"RENT ROLL" shall have the meaning set forth in Section 4.24 hereof.

"RENTS" shall have the meaning set forth in the Mortgage.

"RENT DIRECTION LETTER" shall have the meaning set forth in Section 10.2(a) hereof.

"REPLACEMENT RESERVE ACCOUNT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE FUNDS" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE MONTHLY DEPOSIT" shall have the meaning set forth in Section 9.2(b) hereof.

"REPLACEMENT RESERVE PERIOD" shall mean the period commencing on the earlier of the following to occur: (i) the date upon which the Debt Service Coverage Ratio for the Property, as reasonably determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio equals or exceeds 1.15 to 1.00 for the immediately preceding twelve (12) month period or (ii) the existence and continuance of an Event of Default.

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

"REQUIRED REPAIRS" shall have the meaning set forth in Section 9.1(a) hereof.

"REQUIRED WORK" shall have the meaning set forth in Section 9.4 hereof.

"RESERVE ACCOUNTS" shall mean the Tax and Insurance Reserve Account, the Replacement Reserve Account, the Excess Cash Reserve Account, the Terrorism Reserve Account, if applicable, or any other escrow account established by the Loan Documents.

"RESERVE FUNDS" shall mean the Tax and Insurance Reserve Funds, the Replacement Reserve Funds, the Excess Cash Reserve Funds, the Terrorism Reserve Funds, if applicable, or any other escrow funds established by the Loan Documents.

"RESTORATION" shall mean, following the occurrence of a Casualty or a Condemnation which is of a type necessitating the repair of the Property, the completion of the repair and restoration of the Property as nearly as possible to the condition the Property was in immediately prior to such Casualty or Condemnation, with such alterations as may be reasonably approved by Lender.

"RESTORATION CONSULTANT" shall have the meaning set forth in Section 8.4(b) (iii) hereof.

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"RESTORATION RETAINAGE" shall have the meaning set forth in Section 8.4(b) (iv) hereof.

"RESTRICTED PARTY" shall have the meaning set forth in Section 7.1 hereof.

"SALE OR PLEDGE" shall have the meaning set forth in Section 7.1 hereof.

"SCHEDULED PAYMENT DATE" shall have the meaning set forth in Section 2.2(b) hereof.

"SECURITIES" shall have the meaning set forth in Section 13.1 hereof.

"SECURITIES ACT" shall mean the Securities Act of 1933, as amended.

"SECURITIES LIABILITIES" shall have the meaning set forth in Section 13.5 hereof.

"SECURITIZATION" shall have the meaning set forth in Section 13.1 hereof.

"SPECIAL MEMBER" shall have the meaning set forth in Section 6.1(c).

"SPE COMPONENT ENTITY" shall have the meaning set forth in Section 6.1(b) hereof.

"STANDARD STATEMENTS" shall have the meaning set forth in Section 5.11(c) (i) (A) hereof.

"SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD" shall have the meaning set forth in Schedule 1, attached hereto.

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

"STATE" shall mean the state in which the Property or any part thereof is located.

"SUCCESSOR BORROWER" shall have the meaning set forth in Section 2.4(b) (iii) hereof.

"TAX AND INSURANCE RESERVE FUNDS" shall have the meaning set forth in Section 9.6 hereof. "TAX AND INSURANCE RESERVE ACCOUNT" shall have the meaning set forth in Section 9.6 hereof.

"TAX AND INSURANCE RESERVE PERIOD" shall mean the earlier of the following to occur (i) the period commencing on the date upon which the Debt Service Coverage Ratio for the Property as determined by Lender, for the immediately preceding twelve (12) month period is less than 1.15 to 1.00, and ending on the date the Debt Service Coverage Ratio for the immediately preceding twelve (12) month period equals or exceeds 1.15 to 1.00, (ii) the period during the existence and continuance of an Event of Default or (iii) the period commencing upon Borrower's failure to deliver to Lender evidence of payment of (A) all Taxes and Other Charges in accordance with Section 5.4 hereof or (B) all Insurance Premiums in accordance with Section 8.1 hereof, which evidence shall be reasonably satisfactory to Lender in all respects, and ending upon delivery of such evidence to Lender.

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

"TENANT" shall mean any Person leasing, subleasing or otherwise occupying any portion of the Property under a Lease or other occupancy agreement with Borrower.

"TERMINATION FEE DEPOSIT" shall have the meaning set forth in Section 9.3(b).

"TERRORISM RESERVE ACCOUNT" shall have the meaning set forth in Section 9.8 hereof.

"TERRORISM RESERVE FUNDS" shall have the meaning set forth in Section 9.8 hereof.

"TITLE INSURANCE POLICY" shall mean that certain ALTA mortgagee title insurance policy issued with respect to the Property and insuring the lien of the Mortgage.

"TRANSFeree" shall have the meaning set forth in Section 7.5 hereof.

"TRIBUNAL" shall mean any state, commonwealth, federal, foreign, territorial or other court or governmental department, commission, board, bureau, district, authority, agency, central bank, or instrumentality, or any arbitration authority.

"UCC" or "UNIFORM COMMERCIAL CODE" shall mean the Uniform Commercial Code as in effect in the State where the applicable Property is located.

#### SECTION 1.2. PRINCIPLES OF CONSTRUCTION.

All references to sections and schedules are to sections and schedules in or to this Agreement unless otherwise specified. All uses of the word "including" shall mean "including, without limitation" unless the context shall indicate otherwise. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined.

### ARTICLE 2 GENERAL TERMS

#### SECTION 2.1. LOAN COMMITMENT; DISBURSEMENT TO BORROWER

(a) Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

(b) Borrower may request and receive only one borrowing in respect of the Loan and any amount borrowed and repaid in respect of the Loan may not be reborrowed.

(c) The Loan shall be evidenced by the Note and secured by the Mortgage and the other Loan Documents.

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(d) Borrower shall use the proceeds of the Loan to (i) pay certain costs in connection with the financing of the Property, (ii) make deposits into the Reserve Funds on the Closing Date in the amounts provided herein, (iii) pay costs and expenses incurred in connection with the closing of the Loan, as approved by Lender, (iv) fund any working capital requirements of the Property, and (v) distribute the balance, if any, to its partners or members, as applicable.

#### SECTION 2.2. LOAN PAYMENTS

(a) The Loan shall bear interest at a fixed rate per annum equal to the Note Rate. Interest shall be computed based on the daily rate produced assuming a three hundred sixty (360) day year, multiplied by the actual number of days elapsed. Except as otherwise set forth in this Agreement, interest shall be paid in arrears.

(b) Borrower hereby agrees to pay sums due under the Note as follows: An initial payment of is due on the Closing Date for interest from the Closing Date through and including October 31, 2003. Thereafter, except as may be adjusted in accordance with the last sentence of Section 2.2(c), (1) consecutive monthly installments of interest only in an amount calculated in accordance with Section 2.2(a) above (such amount, the "I/O Monthly Payment Amount") shall be payable on the first day of each month beginning December 1, 2003 (each such date through and including the Maturity Date, a "Scheduled Payment Date") through and including the Scheduled Payment Date occurring in November, 2004 and (2) thereafter, consecutive monthly installments of principal and interest in an amount equal to the sum set forth on Schedule 1, attached hereto, shall be payable pursuant to the terms of Section 2.2(d) (the "Constant Monthly Payment Amount"; the I/O Monthly Payment Amount and the Constant Monthly Payment Amount shall hereinafter be collectively referred to as the "Monthly Payment Amount") on each Scheduled Payment Date until the entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on the Maturity Date.

(c) The Constant Monthly Payment Amount shall mean the amount of interest and principal which would be due in order to fully amortize the principal amount of the Loan over an amortization term of thirty (30) years assuming an annual interest rate equal to the Note Rate, computed on the basis of a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each. Borrower expressly understands and agrees that such computation of interest based on a three hundred sixty (360) day year consisting of twelve (12) months of thirty (30) days each is solely for the purpose of determining the Monthly Payment Amount, and, notwithstanding such computation, interest shall accrue on the outstanding principal amount of the Loan as provided in Section 2.2(a) above. Borrower understands and acknowledges that such interest accrual requirement results in more interest accruing on the Loan than if either a thirty (30) day month and a three hundred sixty (360) day year or the actual number of days and a three hundred sixty-five (365) day year were used to compute the accrual of interest on the Loan. Borrower recognizes that such interest accrual requirement will not fully amortize the Loan within the amortization period set forth above. Following any partial prepayment occurring solely as a result of the application of Insurance Proceeds or Awards pursuant to the terms of this Agreement, Lender may, in its sole and absolute discretion, adjust the Monthly Payment Amount to give effect to any such partial prepayment, provided, however, that in no event will any such adjustment result in any such installment becoming due and payable on any date after the Maturity Date.

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(d) Each payment by Borrower hereunder or under the Note shall be payable at the payment address set forth on Schedule 1, attached hereto, or at such other place as the Lender may designate from time to time in writing, on the date such payment is due, to Lender by deposit to such account as Lender may designate by written notice to Borrower. Whenever any payment hereunder or under the Note shall be stated to be due on a day which is not a Business Day, such payment shall be made on the first Business Day preceding such scheduled due date.

(e) Prior to the occurrence and following the cure (in accordance with the terms hereof) of an Event of Default, all monthly payments made as scheduled under this Agreement and the Note shall be applied first to the payment of interest computed at the Note Rate, and the balance toward the reduction of the principal amount of the Note. All voluntary and involuntary prepayments on the Note shall be applied, to the extent thereof, to accrued but unpaid interest on the amount prepaid, to the remaining principal amount, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion, including, but not limited to, application to principal installments in inverse order of maturity. Following the occurrence and during the continuance of an Event of Default, any payment made on the Note shall be applied to accrued but unpaid interest, late charges, accrued fees, the unpaid principal amount of the

Note, and any other sums due and unpaid to Lender in connection with the Loan, in such manner and order as Lender may elect in its sole and absolute discretion.

(f) All payments made by Borrower hereunder or under the Note or the other Loan Documents shall be made irrespective of, and without any deduction for, any setoff, defense or counterclaims.

#### SECTION 2.3. LATE PAYMENT CHARGE

If any principal or interest payment is not paid by Borrower on or before the date which is ten (10) calendar days after the same is due, Borrower shall pay to Lender upon demand an amount equal to the lesser of four percent (4%) of such unpaid sum or the maximum amount permitted by applicable law in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. Any such amount shall be secured by the Mortgage and the other Loan Documents to the extent permitted by applicable law.

#### SECTION 2.4. PREPAYMENT; DEFEASANCE

Except as otherwise expressly permitted by this Section 2.4, no voluntary prepayments, whether in whole or in part, of the Loan or any other amount at any time due and owing under the Note can be made by Borrower or any other Person without the express written consent of Lender.

(a) Lockout Period. Borrower has no right to make, and Lender shall have no obligation to accept, any voluntary prepayment, whether in whole or in part, of the Loan during the Lockout Period. Notwithstanding the foregoing, if either (i) Lender, in its sole and absolute discretion, accepts a full or partial voluntary prepayment during the Lockout Period or (ii) there is an involuntary prepayment during the Lockout Period, then, in either case, Borrower shall, in

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addition to any portion of the Loan prepaid (together with all interest accrued and unpaid thereon), pay to Lender a prepayment premium in an amount calculated in accordance with Section 2.4(d) hereof.

(b) Total Defeasance.

(i) Notwithstanding any provisions of this Section 2.4 to the contrary, including, without limitation, subsection (a) of this Section 2.4, at any time after the earlier to occur of the (1) expiration of the REMIC Prohibition Period or (2) expiration of the Substitution/Defeasance Lockout Period, Borrower may cause the release of the Property from the lien of the Mortgage and the other Loan Documents upon the satisfaction of the following conditions:

(A) no Event of Default shall exist under any of the Loan Documents;

(B) not less than thirty (30) (but not more than ninety (90)) days prior written notice shall be given to Lender specifying a date on which the Defeasance Collateral (as hereinafter defined) is to be delivered (the "RELEASE DATE"), such date being on a Scheduled Payment Date; provided, however, that Borrower shall have the right (i) to cancel such notice by providing Lender with notice of cancellation ten (10) days prior to the scheduled Release Date, or (ii) to extend the scheduled Release Date until the next Scheduled Payment Date; provided that in each case, Borrower shall pay all of Lender's reasonable costs and expenses incurred as a result of such cancellation or extension;

(C) all accrued and unpaid interest and all other sums due under the Note, this Agreement and under the other Loan Documents up to the Release Date, including, without limitation, all reasonable fees, costs and expenses incurred by Lender and its agents in connection with such release (including, without limitation, reasonable legal fees and expenses for the review and preparation of the Defeasance Security Agreement (as hereinafter defined) and of the other materials described in Section 2.4(b)(i)(D) below and any related documentation, and any servicing fees, Rating Agency fees or other costs related to such release), shall be paid in full on or prior to the Release Date;

(D) Borrower shall deliver to Lender on or prior to the Release Date:

(1) a pledge and security agreement, in form and substance which would be satisfactory to a prudent institutional mortgage loan lender, creating a first priority security interest in favor of Lender in the Defeasance Collateral, as defined herein (the "DEFEASANCE SECURITY AGREEMENT"), which shall provide, among other things, that any excess amounts received by Lender from the Defeasance Collateral over the amounts payable by Borrower on a given Scheduled Payment Date, which excess amounts are not required to cover all or any portion of amounts payable on a future Scheduled Payment Date, shall be refunded to Borrower promptly after each such Scheduled Payment Date;

(2) direct non-callable obligations of the United States of America (or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the

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Investment Company Act of 1940, to the extent the applicable Rating Agencies rating the Securities have confirmed in writing will not cause a downgrade, withdrawal or qualification of the initial, or, if higher, then applicable ratings of the Securities), that provide for payments prior and as close as possible to (but in no event later than) all successive Scheduled Payment Dates occurring after the Release Date, with each such payment being equal to or greater than the amount of the corresponding Monthly Payment Amount required to be paid under this Agreement and the Note (including all amounts due on the Maturity Date) for the balance of the term hereof (the "DEFEASANCE COLLATERAL"), each of which shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance which would be satisfactory to a prudent lender (including, without limitation, such certificates, documents and instruments as may be required by the depository institution holding such securities or the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the Defeasance Security Agreement the first priority security interest therein in favor of Lender in conformity with all applicable state and federal laws governing granting of such security interests;

(3) a certificate of Borrower certifying that all of the requirements set forth in this Section 2.4(b)(i) have been satisfied;

(4) one or more opinions of counsel for Borrower in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that (i) Lender has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against Borrower in accordance with its terms, (ii) the release of the lien of the Mortgage and the pledge of Defeasance Collateral will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (iii) the defeasance will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost;



(5) a certificate in form and scope which would be acceptable to a prudent lender from an Acceptable Accountant certifying that the Defeasance Collateral will generate amounts sufficient to make all payments of principal and interest due under the Note (including the scheduled outstanding principal balance of the Loan due on the Maturity Date); and

(6) such other certificates, documents and instruments as a prudent institutional lender would require; and

(E) in the event the Loan is held by a REMIC Trust, Lender has received written confirmation from any Rating Agency rating any Securities that substitution of the Defeasance Collateral will not result in a downgrade, withdrawal, or qualification of the ratings then assigned to any of the Securities.

(ii) Upon compliance with the requirements of Section 2.4(b)(i), the Property shall be released from the lien of the Mortgage and the other Loan Documents, and the Defeasance Collateral shall constitute collateral which shall secure the Note and all other obligations under the Loan Documents. Lender will, at Borrower's expense, execute and

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deliver any agreements reasonably requested by Borrower to release the lien of the Mortgage and the other Loan Documents from the Property.

(iii) Upon the release of the Property in accordance with this Section 2.4(b), Borrower shall (at Lender's sole and absolute discretion) assign all its obligations and rights under the Note, together with the pledged Defeasance Collateral, to a successor entity designated and approved by Lender in its sole and absolute discretion ("SUCCESSOR BORROWER"). Successor Borrower shall execute an assignment and assumption agreement in form and substance which would be satisfactory to a prudent lender pursuant to which it shall assume Borrower's obligations under the Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, Borrower shall (A) deliver to Lender one or more opinions of counsel in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that such assignment and assumption agreement is enforceable against Borrower and the Successor Borrower in accordance with its terms and that the Note, the Defeasance Security Agreement and the other Loan Documents, as so assigned and assumed, are enforceable against the Successor Borrower in accordance with their respective terms, and opining to such other matters relating to Successor Borrower and its organizational structure as Lender may require, and (B) pay all reasonable fees, costs and expenses incurred by Lender or its agents in connection with such assignment and assumption (including, without limitation, legal fees and expenses and for the review of the proposed transferee and the preparation of the assignment and assumption agreement and related certificates, documents and instruments and any fees payable to any Rating Agencies and their counsel in connection with the issuance of the confirmation referred to in subsection (b)(i)(E) above). Upon such assignment and assumption, Borrower shall be relieved of its obligations hereunder, under the Note, under the other Loan Documents and under the Defeasance Security Agreement, except as expressly set forth in the assignment and assumption agreement.

(iv) For purposes of this Section 2.4, "REMIC PROHIBITION PERIOD" means the two-year period commencing with the "startup day" within the meaning of Section 860G(a)(9) of the Code of any REMIC Trust that holds the Note. In no event shall Lender have any obligation to notify Borrower that a REMIC Prohibition Period is in effect with

respect to the Loan, except that Lender shall notify Borrower if any REMIC Prohibition Period is in effect with respect to the Loan after receiving any notice described in Section 2.4(b)(i)(B); provided, however, that the failure of Lender to so notify Borrower shall not impose any liability on Lender or grant Borrower any right to defease the Loan during any such REMIC Prohibition Period.

(c) Intentionally deleted.

(d) Involuntary Prepayment During the Lockout Period. During the Lockout Period, in the event of any involuntary prepayment of the Loan or any other amount under the Note, whether in whole or in part, in connection with or following Lender's acceleration of the Note or otherwise, and whether the Mortgage is satisfied or released by foreclosure (whether by power of sale or judicial proceeding), deed in lieu of foreclosure or by any other means, including, without limitation, repayment of the Loan by Borrower or any other Person pursuant to any statutory or

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common law right of redemption, Borrower shall, in addition to any portion of the principal balance of the Loan prepaid (together with all interest accrued and unpaid thereon and in the event the prepayment is made on a date other than a Scheduled Payment Date, a sum equal to the amount of interest which would have accrued under the Note on the amount of such prepayment if such prepayment had occurred on the next Scheduled Payment Date), pay to Lender a prepayment premium in an amount calculated in accordance with this Section 2.4(d). Such prepayment premium shall be in an amount equal to the greater of:

(i) 1% of the portion of the Loan being prepaid; or

(ii) the product obtained by multiplying:

(A) the portion of the Loan being prepaid,  
times;

(B) the difference obtained by subtracting (I)  
the Yield Rate from (II) the Note Rate, times;

(C) the present value factor calculated using  
the following formula:

$$\frac{1-(1+r)^{-n}}{r}$$

r = Yield Rate

n = the number of years and any fraction  
thereof, remaining between the date the  
prepayment is made and the Maturity  
Date of the Note.

As used herein, "YIELD RATE" means the yield per annum calculated by Lender by the linear interpolation of the yield of U.S. Treasury Securities having a maturity date (one longer and one shorter) most nearly approximating the Maturity Date as reported on the fifth Business Day preceding the Prepayment Calculation Date. The "PREPAYMENT CALCULATION DATE" shall mean, as applicable, the date on which (i) Lender applies any partial prepayment to the reduction of the outstanding principal amount of the Note, in the case of a voluntary partial prepayment which is accepted by Lender, (ii) Lender accelerates the Loan, in the case of a prepayment resulting from acceleration, or (iii) Lender applies funds held under any Reserve Account, in the case of a prepayment resulting from such an application (other than in connection with acceleration of the Loan).

(e) Insurance and Condemnation Proceeds; Excess Interest.

Notwithstanding any other provision herein to the contrary, and provided no Event of Default exists, Borrower shall not be required to pay any prepayment premium in connection with any prepayment occurring solely as a result of (i) the application of Insurance Proceeds or Condemnation Proceeds pursuant to the terms of the Loan Documents, or (ii) the application of any interest in excess of the Maximum Legal Rate.

(f) After the Lockout Period. Commencing on the day after the expiration of the Lockout Period, and upon giving Lender at least thirty (30) days (but not more than ninety (90) days) prior written notice, Borrower may voluntarily prepay (without premium) the Note in

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whole (but not in part) on a Scheduled Payment Date. Lender shall accept a prepayment pursuant to this Section 2.4(h) on a day other than a Scheduled Payment Date provided that, in addition to payment of the full outstanding principal balance of the Note, Borrower pays to Lender a sum equal to the amount of interest which would have accrued on the Note if such prepayment occurred on the next Scheduled Payment Date (the "INTEREST SHORTFALL").

(g) Limitation on Partial Prepayments. Except as set forth in Section 2.4(e), in no event shall Lender have any obligation to accept a partial prepayment.

SECTION 2.5. INTENTIONALLY DELETED.

SECTION 2.6. PAYMENTS AFTER DEFAULT.

Upon the occurrence and during the continuance of an Event of Default, interest on the outstanding principal balance of the Loan and, to the extent permitted by law, overdue interest and other amounts due in respect of the Loan, (a) shall accrue at the Default Rate, and (b) Lender shall be entitled to receive and Borrower shall pay to Lender all cash flow from the Property in accordance with the terms of Article X hereof, such amount to be applied by Lender to the payment of the Debt in such order as Lender shall determine in its sole discretion, including, without limitation, alternating applications thereof between interest and principal. Interest at the Default Rate shall be computed from the occurrence of the Event of Default until the earlier of (i) the actual receipt and collection of the Debt (or that portion thereof that is then due) and (ii) the cure of such Event of Default. To the extent permitted by applicable law, interest at the Default Rate shall be added to the Debt, shall itself accrue interest at the same rate as the Loan and shall be secured by the Mortgage. This paragraph shall not be construed as an agreement or privilege to extend the date of the payment of the Debt, nor as a waiver of any other right or remedy accruing to Lender by reason of the occurrence of any Event of Default; the acceptance of any payment from Borrower shall not be deemed to cure or constitute a waiver of any Event of Default; and Lender retains its rights under this Agreement to accelerate and to continue to demand payment of the Debt upon the happening of and during the continuance any Event of Default, despite any payment by Borrower to Lender.

SECTION 2.7. USURY SAVINGS

This Agreement and the Note are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the principal balance of the Loan at a rate which could subject Lender to either civil or criminal liability as a result of being in excess of the Maximum Legal Rate. If, by the terms of this Agreement or the other Loan Documents, Borrower is at any time required or obligated to pay interest on the principal balance due hereunder at a rate in excess of the Maximum Legal Rate, the Note Rate or the Default Rate, as the case may be, shall be deemed to be immediately reduced to the Maximum Legal Rate and all previous payments in excess of the Maximum Legal Rate shall be deemed to have been payments in reduction of principal and not on account of the interest due hereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the sums due under the Loan,

shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount

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of interest on account of the Loan does not exceed the Maximum Legal Rate of interest from time to time in effect and applicable to the Loan for so long as the Loan is outstanding.

ARTICLE 3  
CONDITIONS PRECEDENT

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

SECTION 3.1. REPRESENTATIONS AND WARRANTIES; COMPLIANCE WITH CONDITIONS

The representations and warranties of Borrower contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of such date, and Lender shall have determined that no Default or an Event of Default shall have occurred and be continuing nor will any Default or Event of Default occur immediately following the Closing Date; and Borrower shall be in compliance in all material respects with all terms and conditions set forth in this Agreement and in each other Loan Document on its part to be observed or performed.

SECTION 3.2. DELIVERY OF LOAN DOCUMENTS; TITLE INSURANCE; REPORTS;  
LEASES

(a) Mortgage, Loan Agreement and Note. Lender shall have received from Borrower a fully executed and acknowledged counterpart of the Mortgage and evidence that counterparts of the Mortgage and Uniform Commercial Code financing statements have been delivered to the title company for recording, in the reasonable judgment of Lender, so as to effectively create upon such recording valid and enforceable Liens upon the Property, of the requisite priority, in favor of Lender (or such other trustee as may be required or desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents. Lender shall have also received from Borrower fully executed counterparts of the Environmental Indemnity (if applicable), this Agreement, the Note and Assignment of Management Agreement and all other Loan Documents.

(b) Title Insurance. Lender shall have received a Title Insurance Policy issued by a title company acceptable to Lender and dated as of the Closing Date. Such Title Insurance Policy shall (i) provide coverage in the amount of the Loan, (ii) insure Lender that the Mortgage creates a valid lien on the Property of the requisite priority, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified by the terms of any endorsements), (iii) contain such endorsements and affirmative coverages as Lender may reasonably request, and (iv) name Lender as the insured. The Title Insurance Policy shall be assignable. Lender also shall have received evidence that all premiums in respect of such Title Insurance Policy have been paid.

(c) Survey. Lender shall have received a current title survey for the Property, certified to the title company and Lender and their successors and assigns, in form and content satisfactory to Lender and prepared by a professional and properly licensed land surveyor satisfactory to Lender in accordance with the 1999 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys. The survey shall meet the classification of an "Urban

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Survey" and the following additional items from the list of "Optional Survey Responsibilities and Specifications" (Table A) should be added to each survey: 2, 3, 4, 6, 8, 9, 10 and 11(a) (excluding individual manufactured home pads and individual parking spaces provided the applicable surveyor certifies that the same do not violate any boundaries, setbacks or easements). Such survey shall reflect the same legal description contained in the Title Insurance Policy referred to in subsection (b) above and shall include, among other things, a metes and bounds or recorded plat description of the real property comprising part of the Property reasonably satisfactory to Lender. The surveyor's seal shall be affixed to the survey and the surveyor shall provide a certification for each survey in form and substance acceptable to Lender.

(d) Insurance. Lender shall have (i) had an opportunity to have its insurance representative review copies of the Policies required hereunder, (ii) received certificates with respect to the Policies and (iii) received evidence of the payment of all Insurance Premiums payable for the existing policy period all of which shall be satisfactory to Lender in its sole discretion. In no event shall Borrower be required to provide terrorism insurance.

(e) Environmental Reports. Lender shall have received an Environmental Report in respect of the Property satisfactory to Lender.

(f) Zoning/Building Code. Lender shall have received evidence of compliance with zoning and building ordinances and codes, including, without limitation, required certificates of occupancy for any permanent structure, reasonably acceptable to Lender.

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

(h) Lien Searches. Lender shall have received certified search results pertaining to Borrower, Borrower Principal and such other Persons or any SPE Component Entity as reasonably required by Lender for state and federal tax liens, bankruptcy, judgment, litigation and state and local UCC filings

### SECTION 3.3. RELATED DOCUMENTS

Each additional document not specifically referenced herein, but relating to the transactions contemplated herein, shall have been duly authorized, executed and delivered by all parties thereto and at Lender's written request, Lender shall have received and approved certified copies thereof.

### SECTION 3.4. ORGANIZATIONAL DOCUMENTS

On or before the Closing Date, Borrower shall deliver or cause to be delivered to Lender (a) copies certified by Borrower of all organizational documentation related to Borrower, each SPE Component Entity and Borrower Principal which must be acceptable to Lender in its reasonable discretion, and (b) such other evidence of the formation, structure, existence, good standing and/or qualification to do business of Borrower, each SPE Component Entity and

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Borrower Principal, as Lender may request in its reasonable discretion, including, without limitation, good standing or existence certificates, qualifications to do business in the appropriate jurisdictions, resolutions authorizing the entering into of the Loan and incumbency certificates as may be requested by Lender.

### SECTION 3.5. OPINIONS OF BORROWER'S COUNSEL

Lender shall have received opinions of Borrower's counsel (a) with respect to non-consolidation issues (if the amount of the Loan equals or exceeds \$20,000,000) and (b) with respect to due execution, authority, enforceability of the Loan Documents and such other matters as Lender may require, all such opinions in form, scope and substance satisfactory to Lender and Lender's counsel in their sole discretion.

#### SECTION 3.6. ANNUAL BUDGET

Borrower shall have delivered to Lender an annual budget for the current fiscal year.

#### SECTION 3.7. TAXES AND OTHER CHARGES

Borrower shall have paid all Taxes and Other Charges (including any in arrears) relating to the Property, which amounts may be funded with proceeds of the Loan.

#### SECTION 3.8. COMPLETION OF PROCEEDINGS

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

#### SECTION 3.9. PAYMENTS

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

#### SECTION 3.10. TRANSACTION COSTS

Except as otherwise expressly provided herein, Borrower shall have paid or reimbursed Lender for all reasonable out of pocket expenses in connection with the underwriting, negotiation, and closing of the Loan, including title insurance premiums and other title company charges; recording, registration, filing and similar fees, taxes and charges; transfer, mortgage, deed, stamp or documentary taxes or similar fees or charges; costs of third-party reports, including without limitation, environmental studies, credit reports, seismic reports, engineer's reports, appraisals and surveys; underwriting and origination expenses; and all actual, reasonable legal fees and expenses charged by counsel to Lender.

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#### SECTION 3.11. NO MATERIAL ADVERSE CHANGE

There shall have been no material adverse change in the financial condition or business condition of the Property, Borrower, Borrower Principal, any SPE Component Entity or Manager since the date of the most recent financial statements and/or other information delivered to Lender. The income and expenses of the Property, the occupancy and leases thereof, and all other features of the transaction shall be as represented to Lender without material adverse change. Neither Borrower nor Borrower Principal, any SPE Component Entity or Affiliated Manager shall be the subject of any bankruptcy, reorganization, or insolvency proceeding.

#### SECTION 3.12. LEASES AND RENT ROLL

Lender shall have received copies of all Major Leases affecting the Property, which shall be satisfactory in form and substance to Lender. Lender shall have received a current certified rent roll of the Property, reasonably satisfactory in form and substance to Lender.

SECTION 3.13. INTENTIONALLY DELETED.

SECTION 3.14. INTENTIONALLY DELETED.

SECTION 3.15. INTENTIONALLY DELETED.

SECTION 3.16. TAX LOT

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

SECTION 3.17. PHYSICAL CONDITIONS REPORT

Lender shall have received a Physical Conditions Report with respect to the Property, which report shall be reasonably satisfactory in form and substance to Lender.

SECTION 3.18. MANAGEMENT AGREEMENT

Lender shall have received a certified copy of the Management Agreement with respect to the Property which shall be satisfactory in form and substance to Lender.

SECTION 3.19. APPRAISAL

Lender shall have received an appraisal of the Property, which shall be satisfactory in form and substance to Lender.

SECTION 3.20. FINANCIAL STATEMENTS

Lender shall have received financial statements and related information in form and substance satisfactory to Lender and in compliance with any Legal Requirements promulgated by the Securities and Exchange Commission, including, without limitation, a balance sheet, income and expense statement and statement of cash flows with respect to MHC (on a

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consolidated basis with MHCOP) and an operating statement with respect to the Property for the year-to-date 2003, 2002, 2001, 2000 and 1999.

SECTION 3.21. INTENTIONALLY DELETED

SECTION 3.22. FURTHER DOCUMENTS

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

#### ARTICLE 4 REPRESENTATIONS AND WARRANTIES

Borrower and, with respect to Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31, 4.39, and 4.40, each Borrower Principal represents and warrants to Lender as of the Closing Date that:

SECTION 4.1. ORGANIZATION

Borrower and each Borrower Principal (when not an individual) (a) has been duly organized and is validly existing and in good standing with requisite power and authority to own its properties and to transact the businesses in which it is now engaged, (b) is duly qualified to do business and is in good

standing in each jurisdiction where it is required to be so qualified in connection with its properties, businesses and operations, (c) to the best of Borrower's knowledge, possesses all material rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to own its properties and to transact the businesses in which it is now engaged, and the sole business of Borrower is the ownership, management and operation of the Property, and (d) in the case of Borrower, has full power, authority and legal right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to the terms of the Loan Documents, and in the case of Borrower and each Borrower Principal, has full power, authority and legal right to keep and observe all of the terms of the Loan Documents to which it is a party. Borrower and each Borrower Principal represent and warrant that the chart attached hereto as Exhibit B sets forth an accurate listing of the direct and indirect owners of the equity interests in Borrower and each SPE Component Entity (if any).

#### SECTION 4.2. STATUS OF BORROWER

Borrower's exact legal name is correctly set forth on the first page of this Agreement, on the Mortgage and on any UCC-1 Financing Statements filed in connection with the Loan. Borrower is an organization of the type specified on the first page of this Agreement. Borrower is incorporated in or organized under the laws of the state of Delaware. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of Borrower) the address of Borrower set forth on the first page of this Agreement. Borrower's organizational identification number, if

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any, assigned by the state of incorporation or organization is set forth on Schedule 1, attached hereto.

#### SECTION 4.3. VALIDITY OF DOCUMENTS

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

#### SECTION 4.4. NO CONFLICTS

The execution, delivery and performance of this Agreement and the other Loan Documents by Borrower and each Borrower Principal will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance (other than pursuant to the Loan Documents) upon any of the property or assets of Borrower or any Borrower Principal pursuant to the terms of any agreement or instrument to which Borrower or any Borrower Principal is a party or by which any of Borrower's or Borrower Principal's property or assets is subject, nor to the best of Borrower's knowledge will such action result in any violation of the provisions of any statute or any order, rule or regulation of any Governmental Authority having jurisdiction over Borrower or any Borrower Principal or any of Borrower's or Borrower Principal's properties or assets, and any consent, approval, authorization, order, registration or qualification of or with any Governmental Authority required for the execution, delivery and



performance by Borrower or Borrower Principal of this Agreement or any of the other Loan Documents has been obtained and is in full force and effect.

#### SECTION 4.5. LITIGATION

There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other agency now pending or, to Borrower's or Borrower Principal's knowledge, threatened against or affecting Borrower, any Borrower Principal, Manager or the Property, which actions, suits or proceedings, if determined against Borrower, any Borrower Principal, Manager or the Property, would materially adversely affect the condition (financial or otherwise) or business of Borrower or any Borrower Principal or the condition or ownership of the Property other than as disclosed in Schedule 4.5 attached hereto.

#### SECTION 4.6. AGREEMENTS

Borrower is not a party to any agreement or instrument or subject to any restriction which would materially and adversely affect Borrower or the Property, or Borrower's business, properties or assets, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations,

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covenants or conditions contained in any agreement or instrument to which it is a party or by which Borrower or the Property is bound. Borrower has no material financial obligation under any agreement or instrument to which Borrower is a party or by which Borrower or the Property is otherwise bound, other than (a) obligations incurred in the ordinary course of the operation of the Property and (b) obligations under the Loan Documents.

#### SECTION 4.7. SOLVENCY

Borrower and each Borrower Principal have (a) not entered into the transaction or executed the Note, this Agreement or any other Loan Documents with the actual intent to hinder, delay or defraud any creditor and (b) received reasonably equivalent value in exchange for their obligations under such Loan Documents. Giving effect to the Loan, the fair saleable value of the assets of Borrower and each Borrower Principal exceeds and will, immediately following the making of the Loan, exceed the total liabilities of Borrower and each Borrower Principal, including, without limitation, subordinated, unliquidated, disputed and contingent liabilities. No petition in bankruptcy has been filed against Borrower, any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years, and neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager in the last ten (10) years has made an assignment for the benefit of creditors or taken advantage of any Creditors Rights Laws. Neither Borrower nor any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager is contemplating either the filing of a petition by it under any Creditors Rights Laws or the liquidation of all or a major portion of Borrower's assets or property, and Borrower has no knowledge of any Person contemplating the filing of any such petition against Borrower or any Borrower Principal, any SPE Component Entity (if any) or Affiliated Manager.

#### SECTION 4.8. FULL AND ACCURATE DISCLOSURE

To the best of Borrower's knowledge, no statement of fact made by or on behalf of Borrower or any Borrower Principal in this Agreement or in any of the other Loan Documents or in any other document or certificate delivered by or on behalf of Borrower or any Borrower Principal contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no material fact presently known to Borrower or any Borrower Principal which has not been disclosed to Lender which materially and adversely affects, nor as far as Borrower or any Borrower Principal can reasonably foresee, might materially and adversely

affect, the Property or the business, operations or condition (financial or otherwise) of Borrower or any Borrower Principal.

#### SECTION 4.9. NO PLAN ASSETS

Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101. In addition, (a) Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (b) transactions by or with Borrower are not subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans similar to the

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provisions of Section 406 of ERISA or Section 4975 of the Internal Revenue Code currently in effect, which prohibit or otherwise restrict the transactions contemplated by this Agreement.

#### SECTION 4.10. NOT A FOREIGN PERSON

Neither Borrower nor Borrower Principal is a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code.

#### SECTION 4.11. ENFORCEABILITY

The Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense by Borrower, including the defense of usury, nor would the operation of any of the terms of the Loan Documents, or the exercise of any right thereunder, render the Loan Documents unenforceable, and neither Borrower nor Borrower Principal has asserted any right of rescission, set-off, counterclaim or defense with respect thereto. No Default or Event of Default exists under or with respect to any Loan Document.

#### SECTION 4.12. BUSINESS PURPOSES

The Loan is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

#### SECTION 4.13. COMPLIANCE

To the best of Borrower's knowledge, Borrower and the Property, and the use and operation thereof, comply in all material respects with all Legal Requirements, including, without limitation, building and zoning ordinances and codes and the Americans with Disabilities Act except as expressly disclosed in any written materials furnished by Borrower to Lender or as expressly disclosed in any physical condition report or environmental report received by Lender in connection with the closing of the Loan. To Borrower's knowledge, Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority and Borrower has received no written notice of any such default or violation which if determined against Borrower or the Property would materially adversely affect Borrower or the Property. There has not been committed by Borrower or, to Borrower's knowledge, any other Person in occupancy of or involved with the operation or use of the Property any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

#### SECTION 4.14. FINANCIAL INFORMATION

All financial data, including, without limitation, the balance sheets, statements of cash flow, statements of income and operating expense and rent rolls, that have been delivered to Lender in respect of Borrower, any Borrower Principal and/or the Property (a) are true, complete and correct in all material respects, (b) accurately represent the financial condition of Borrower, Borrower

Principal or the Property, as applicable, as of the date of such reports, and (c) to the extent prepared or audited by an independent certified public accounting firm, have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein.

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To Borrower's actual knowledge after due inquiry, Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and reasonably likely to have a material adverse effect on the Property or the current and/or intended operation thereof, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower or Borrower Principal from that set forth in said financial statements.

#### SECTION 4.15. CONDEMNATION

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

#### SECTION 4.16. UTILITIES AND PUBLIC ACCESS; PARKING

The Property (i) has adequate rights of access to public ways directly, or indirectly, pursuant to private easements which have been adequately insured under the Title Insurance Policy and (ii) is served by water, sewer, sanitary sewer and storm drain facilities which, to the best of Borrower's knowledge, are adequate to service the Property for full utilization of the Property for its intended uses. All public utilities necessary to the full use and enjoyment of the Property as currently used and enjoyed are located either in the public right-of-way abutting the Property (which are connected so as to serve the Property without passing over other property) or in recorded easements serving the Property and such easements are set forth in and insured by the Title Insurance Policy. All roads necessary for the use of the Property for its current purposes have been completed and dedicated to public use and accepted by all Governmental Authorities. The Property has, or is served by, parking to the extent required to comply with all Legal Requirements in all material respects.

#### SECTION 4.17. SEPARATE LOTS

The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof.

#### SECTION 4.18. ASSESSMENTS

To Borrower's knowledge after due inquiry, there are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, nor are there any contemplated improvements to the Property that may result in such special or other assessments.

#### SECTION 4.19. INSURANCE

Borrower has obtained and has delivered to Lender certified copies of all Policies or, to the extent such Policies are not available as of the Closing Date, certificates of insurance with respect to all such Policies reflecting the insurance coverages, amounts and other requirements

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set forth in this Agreement. No claims have been made under any of the Policies, and to Borrower's knowledge, no Person, including Borrower, has done, by act or omission, anything which would impair the coverage of any of the Policies.

#### SECTION 4.20. USE OF PROPERTY

The Property is used exclusively for mobile home community and/or recreational vehicle resort purposes, as applicable, and other appurtenant and related uses.

#### SECTION 4.21. CERTIFICATE OF OCCUPANCY; LICENSES

All material certifications, permits, licenses and approvals, including, without limitation, certificates of completion or occupancy and any applicable liquor license required for the legal use, occupancy and operation of the Property for the purpose intended herein, have been obtained and are valid and in full force and effect. Borrower shall keep and maintain all licenses necessary for the operation of the Property for the purpose intended herein. The use being made of the Property is in conformity with any certificates of occupancy and any permits or licenses issued for the Property. The Property contains all equipment necessary to use and operate the Property as a mobile home community and/or recreational vehicle resort, as applicable.

#### SECTION 4.22. FLOOD ZONE

None of the Improvements on the Property are located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards, or, if any portion of the Improvements is located within such area, Borrower has obtained the insurance prescribed in Section 8.1(a)(i).

#### SECTION 4.23. PHYSICAL CONDITION

To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report delivered to Lender in connection with the closing of the Loan, the Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems (including, but not limited to, liquid and solid waste disposal, septic and sewer systems), HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects. To Borrower's knowledge after due inquiry and except as disclosed in the physical condition report delivered to Lender in connection with the closing of the Loan, there exists no structural or other material defects or damages in the Property, as a result of a Casualty or otherwise, and whether latent or otherwise. Borrower has not received notice from any insurance company or bonding company of any defects or inadequacies in the Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

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#### SECTION 4.24. BOUNDARIES

(a) Except as disclosed in the Survey of the Property delivered to Lender in connection with the closing of the Loan and for which adequate insurance has been obtained under the Title Insurance Policy, none of the Improvements which were included in determining the appraised value of the Property lie outside the boundaries and building restriction lines of the Property to any material extent, and (b) no improvements on adjoining properties encroach upon the Property and no easements or other encumbrances upon the Property encroach upon any of the Improvements so as to materially affect the value or marketability of the Property and for which title endorsements that are reasonably acceptable to Lender have not been obtained.

#### SECTION 4.25. LEASES AND RENT ROLL

Borrower has delivered to Lender a true, correct and complete rent roll for the Property (a "RENT ROLL") which includes all Leases affecting the Property and contains an aging report setting forth past due amounts with respect to the Tenants; provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort, written Leases are not used in the ordinary course of the Property's operation. Except as set forth in the Rent Roll (as same has been updated by written notice thereof to Lender): (a) each Lease is in full force and effect; (b) the premises demised under any Major Leases have been completed and the Tenants under the Leases have accepted possession of and are in occupancy of all of their respective demised premises; (c) the Tenants under any Major Leases have commenced the payment of rent under the Leases, there are no offsets, claims or defenses to the enforcement thereof, and Borrower has no monetary obligations to any Tenant under any such Leases; (d) all Rents due and payable under any Major Leases have been paid and no portion thereof has been paid for any period more than thirty (30) days in advance; (e) the rent payable under each Lease is the amount of fixed rent set forth in the Rent Roll, and there is no claim or basis for a claim by the Tenant thereunder for an offset or adjustment to the rent; (f) (1) no Tenant has made any written claim of a material default against the landlord under any Major Lease which remains outstanding nor has Borrower or Manager received, by telephonic, in-person, e-mail or other communication, any notice of a material default under any Lease and (2) no more than five percent (5%) of Tenants under pad leases have made any written claims of material defaults from against the landlord which remain outstanding nor has Borrower or Manager received any written notice of material defaults from greater than five percent (5%) of the Tenants under such Leases; (g) to Borrower's knowledge there is no present material default by a Tenant under any Major Lease; (h) all security deposits under the Leases have been collected by Borrower; (i) Borrower is the sole owner of the entire landlord's interest in each Lease; (j) each Lease is the valid, binding and enforceable obligation of Borrower and the applicable Tenant thereunder and there are no agreements with the Tenants under any Major Leases other than as expressly set forth in the Leases; (k) no Person has any possessory interest in, or right to occupy, the Property or any portion thereof except under the terms of a Lease (or as otherwise provided for under applicable law); provided, however, that Lender acknowledges that, to the extent the Property consists of a recreational vehicle resort (and for so long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan), written Leases are not used in the ordinary course of the Property's operation; (l) none of the Leases contains any option or offer to purchase or right of first refusal to purchase the Property or any part thereof, except to the extent such rights of first refusal are provided to Tenants (occupying the Property under pad Leases) or

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a homeowner's association, solely as the result of applicable Legal Requirements; (m) neither the Leases nor the Rents have been assigned, pledged or hypothecated except to Lender, and no other Person has any interest therein except the Tenants thereunder; and (n) no conditions exist which now give any Tenant or party the right to "go dark" pursuant to the provision of any Major Lease and/or the any REA. In the event there are any Leases affecting the Property relating to laundry facilities (each, a "LAUNDRY LEASE"), none of any such Laundry Leases (A) provides that the Tenant under such Laundry Lease shall be entitled to any proceeds payable in connection with a Casualty of Condemnation, (B) contains any option or offer to purchase or right of first refusal or right of first offer to purchase the Property or any part thereof, (C) comprises a material portion of the Property or (D) imposes any material obligations upon Borrower.

#### SECTION 4.26. FILING AND RECORDING TAXES

All mortgage, mortgage recording, stamp, intangible or other similar tax required to be paid by any Person under applicable Legal Requirements

currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents, including, without limitation, the Mortgage, have been paid or will be paid, and, under current Legal Requirements, the Mortgage is enforceable in accordance with its terms by Lender (or any subsequent holder thereof).

#### SECTION 4.27. MANAGEMENT AGREEMENT

The Management Agreement is in full force and effect and there is no default thereunder by any party thereto and, to Borrower's knowledge, no event has occurred that, with the passage of time and/or the giving of notice would constitute a default thereunder. No management fees under the Management Agreement are accrued and unpaid.

#### SECTION 4.28. ILLEGAL ACTIVITY

No portion of the Property has been or will be purchased with proceeds of any illegal activity, and no part of the proceeds of the Loan will be used in connection with any illegal activity.

#### SECTION 4.29. CONSTRUCTION EXPENSES

All costs and expenses of any and all labor, materials, supplies and equipment used in the construction maintenance or repair of the Improvements have been paid in full or to the extent any such costs and expenses have resulted in a Lien against the Property, the Title Insurance Policy provides Lender satisfactory affirmative insurance with respect to such Lien. To Borrower's knowledge after due inquiry, there are no claims for payment for work, labor or materials affecting the Property which are or may become a lien prior to, or of equal priority with, the Liens created by the Loan Documents.

#### SECTION 4.30. PERSONAL PROPERTY

Borrower has paid in full for, and is the owner of, all Personal Property (other than tenants' property) used in connection with the operation of the Property, free and clear of any

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and all security interests, liens or encumbrances, except for Permitted Encumbrances and the Lien and security interest created by the Loan Documents.

#### SECTION 4.31. TAXES

Borrower and Borrower Principal have filed all federal, state, county, municipal, and city income, personal property and other tax returns required to have been filed by them and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Borrower nor Borrower Principal knows of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

#### SECTION 4.32. PERMITTED ENCUMBRANCES

None of the Permitted Encumbrances, individually or in the aggregate, materially interferes with the benefits of the security intended to be provided by the Loan Documents, materially and adversely affects the value of the Property, impairs the use or the operation of the Property or impairs Borrower's ability to pay its obligations in a timely manner.

#### SECTION 4.33. FEDERAL RESERVE REGULATIONS

Borrower will use the proceeds of the Loan for the purposes set forth in Section 2.1(d) hereof and not for any illegal activity. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of

the Federal Reserve System or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Legal Requirements or prohibited by the terms and conditions of this Agreement or the other Loan Documents.

#### SECTION 4.34. INVESTMENT COMPANY ACT

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

#### SECTION 4.35. RECIPROCAL EASEMENT AGREEMENTS

(a) Neither Borrower, nor any other party is currently in default (nor has any notice been given or received with respect to an alleged or current default) under any of the terms and conditions of any REA, and any such REA remains unmodified and in full force and effect;

(b) All easements granted pursuant to any REA which were to have survived the site preparation and completion of construction (to the extent that the same has been completed), remain in full force and effect and have not been released, terminated, extinguished or discharged by agreement or otherwise;

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(c) All sums due and owing by Borrower to the other parties to any REA (or by the other parties to any such REA to Borrower) pursuant to the terms of any such REA, including without limitation, all sums, charges, fees, assessments, costs, and expenses in connection with any taxes, site preparation and construction, non-shareholder contributions, and common area and other property management activities have been paid, are current, and no lien has attached on the Property (or threat thereof been made) for failure to pay any of the foregoing;

(d) The terms, conditions, covenants, uses and restrictions contained in any REA do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk placement, tenant restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions; and

(e) The terms, conditions, covenants, uses and restrictions contained in each Lease do not conflict in any manner with any terms, conditions, covenants, uses and restrictions contained in any REA, any other Lease or in any agreement between Borrower and occupant of any peripheral parcel, including without limitation, conditions and restrictions with respect to kiosk placement, tenant restrictions (type, location or exclusivity), sale of certain goods or services, and/or other use restrictions.

#### SECTION 4.36. NO CHANGE IN FACTS OR CIRCUMSTANCES; DISCLOSURE

All information submitted by Borrower or its agents to Lender and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the Loan or in satisfaction of the terms thereof and all statements of fact made by Borrower in this Agreement or in any other Loan Document, are accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that otherwise materially and adversely affects or, to the best of Borrower's knowledge, could reasonably be expected to materially and adversely affect the Property or the business

operations or the financial condition of Borrower. To the best of Borrower's knowledge, Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading.

#### SECTION 4.37. INTELLECTUAL PROPERTY

All trademarks, trade names and service marks necessary to the business of Borrower as presently conducted or as Borrower contemplates conducting its business are in good standing and, to the extent of Borrower's actual knowledge, uncontested. Borrower has not infringed, is not infringing, and has not received notice of infringement with respect to asserted trademarks, trade names and service marks of others. To Borrower's knowledge, there is no infringement by others of trademarks, trade names and service marks of Borrower.

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#### SECTION 4.38. SURVEY

The Survey for the Property delivered to Lender in connection with this Agreement has been prepared in accordance with the provisions of Section 3.2(c) hereof, and to the actual knowledge of Borrower does not fail to reflect any material matter affecting the Property or the title thereto, which was required to be set forth therein pursuant to Section 3.2(c) hereof.

#### SECTION 4.39. EMBARGOED PERSON

As of the date hereof and at all times throughout the term of the Loan, including after giving effect to any transfers of interests permitted pursuant to the Loan Documents, (a) (1) none of the funds or other assets of Borrower constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government and (2) none of the funds or other assets of Borrower Principal constitute property of, or are beneficially owned, directly or indirectly by any person, entity or government owning, directly or indirectly, greater than a 10% interest in Borrower Principal, that is subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Borrower or Borrower Principal, as applicable (whether directly or indirectly), is prohibited by law or the Loan made by Lender is in violation of law ("EMBARGOED PERSON"); (b) no Embargoed Person has any interest of any nature whatsoever in Borrower or Borrower Principal, as applicable, with the result that the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower or Borrower Principal, as applicable, have been derived from any unlawful activity with the result that the investment in Borrower or Borrower Principal, as applicable, (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

#### SECTION 4.40. PATRIOT ACT

All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including Executive Order 13224 effective September 24, 2001 (collectively referred to in this Section only as the "PATRIOT ACT") and are incorporated into this Section. Each of Borrower and Borrower Principal hereby represents and warrants that Borrower and Borrower Principal and each and every Person affiliated with Borrower or owning directly or indirectly greater than a 10% interest in Borrower Principal or that to Borrower's knowledge has an economic interest in Borrower, or, to Borrower's knowledge, that has or will have an interest in the transaction contemplated by this Agreement or in the Property or will participate, in any manner whatsoever, in the Loan, is: (i) not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and



13224 and all modifications thereto or thereof (as used in this Section only, the "ANNEX"); (ii) in full compliance with the requirements of the Patriot Act and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury (as used in this Section only, "OFAC"); (iii) operated under policies, procedures and practices, if any, that are in compliance with the Patriot Act and available to Lender for Lender's review and

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inspection during normal business hours and upon reasonable prior notice; (iv) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (v) not listed as a Specially Designated Terrorist or as a "blocked" person on any lists maintained by the OFAC pursuant to the Patriot Act or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Act or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Act; (vi) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (vii) not owned or controlled by or now acting and or will in the future act for or on behalf of any person named in the Annex or any other list promulgated under the Patriot Act or any other person who has been determined to be subject to the prohibitions contained in the Patriot Act. Borrower covenants and agrees that in the event Borrower receives any notice that Borrower Principal or Borrower (or any of its beneficial owners or affiliates or participants) become listed on the Annex or any other list promulgated under the Patriot Act or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender. It shall be an Event of Default hereunder if Borrower, Borrower Principal or any other party to any Loan Document becomes listed on any list promulgated under the Patriot Act or is indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.

SECTION 4.41. INTENTIONALLY DELETED.

SECTION 4.42. OPERATING LEASE REPRESENTATIONS.

With respect to any Operating Leases relating to the Property, each such Operating Lease provides that (i) it is subject and subordinate to the lien, terms and conditions of the Mortgage and the other Loan Documents and (ii) in the event that the Lender takes possession of the Property, either as the result of foreclosure of the Mortgage or accepting a deed to the Property in lieu of foreclosure, or otherwise (or the Property shall be purchased at such a foreclosure by a third party), the Tenant shall attorn to the Lender or such third party and recognize the Lender or such third party as its landlord under the applicable Operating Lease, whereupon, the Operating Lease shall continue in full force and effect as a direct lease between the Lender or such third party and the Tenant for the full term thereof, together with all extensions and renewals thereof. None of the Operating Leases (and none of the underlying real property relating to any such Operating Lease), if any, produce any income to Borrower or the Tenant thereunder, and there are currently no Rents payable by the Tenant to the Borrower under such Operating Lease. Each Operating Lease is in full force and effect, has not been modified or amended in any manner whatsoever, (b) there are no defaults under any Operating Lease by Borrower, or, to the best of Borrower's knowledge, the Tenant thereunder, and, to the best of Borrower's knowledge, no event has occurred which but for the passage of time, or notice, or both would constitute a default under such Operating Lease.

SECTION 4.43. SURVIVAL

Borrower agrees that, unless expressly provided otherwise, all of the representations and warranties of Borrower set forth in this Agreement and elsewhere in this Agreement and in the

other Loan Documents shall survive for so long as any portion of the Debt remains owing to Lender. All representations, warranties, covenants and agreements made in this Agreement or in the other Loan Documents by Borrower shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

ARTICLE 5  
BORROWER COVENANTS

From the date hereof and until repayment of the Debt in full and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Lien of the Mortgage (and all related obligations) in accordance with the terms of this Agreement and the other Loan Documents, Borrower hereby covenants and agrees with Lender that:

SECTION 5.1. EXISTENCE; COMPLIANCE WITH LEGAL REQUIREMENTS

(a) Borrower shall do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence, rights, licenses, permits and franchises and comply in all material respects with all Legal Requirements applicable to it and the Property. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording any Governmental Authority the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the Legal Requirements affecting the Property, provided that (i) no Default or Event of Default has occurred and is continuing; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower or the Property is subject and shall not constitute a default thereunder; (iii) neither the Property, any part thereof or interest therein, any of the tenants or occupants thereof, nor Borrower shall be affected in any material adverse way as a result of such proceeding; (iv) non-compliance with the Legal Requirements shall not impose civil or criminal liability on Borrower or Lender; (v) Borrower shall have furnished the security as may be required in the proceeding or by Lender to ensure compliance by Borrower with the Legal Requirements; and (vi) Borrower shall have furnished to Lender all other items reasonably requested by Lender.

SECTION 5.2. MAINTENANCE AND USE OF PROPERTY

Borrower shall cause the Property to be maintained in a good and safe condition and repair. The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of Personal Property) other than in accordance with the provisions of Section 5.21 without the prior written consent of Lender. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

SECTION 5.3. WASTE

Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any

Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security for the Loan. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Property, regardless of the depth thereof or the method of mining or extraction thereof.

#### SECTION 5.4. TAXES AND OTHER CHARGES

(a) Borrower shall pay all Taxes and Other Charges now or hereafter levied or assessed or imposed against the Property or any part thereof no later than ten (10) Business Days prior to the date on which such Taxes or Other Charges would be delinquent; provided, however, Borrower's obligation to directly pay Taxes shall be suspended for so long as Borrower complies with the terms and provisions of Section 9.6 hereof. Borrower shall furnish to Lender receipts (or copies of checks and transmittal letters evidencing the payment of such Taxes or Other Charges) for the payment of the Taxes and the Other Charges prior to the date the same shall become delinquent (provided, however, that Borrower is not required to furnish such receipts for payment of Taxes in the event that such Taxes have been paid by Lender pursuant to Section 9.6 hereof). Subject to any rights of Borrower under this Agreement to contest Liens, Borrower shall not suffer and shall promptly cause to be paid and discharged any Lien or charge whatsoever which may be or become a Lien or charge against the Property, and shall promptly pay for all utility services provided to the Property, except to the extent the costs of such utility services are not payable by Borrower and are billed to Tenants at the Property.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any Taxes or Other Charges, provided that (i) no Event of Default has occurred and remains uncured; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable Legal Requirements; (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost; (iv) Borrower shall promptly upon final determination thereof pay the amount of any such Taxes or Other Charges, together with all costs, interest and penalties which may be payable in connection therewith; (v) such proceeding shall suspend the collection of such contested Taxes or Other Charges from the Property; and (vi) Borrower shall furnish such security as may be required in the proceeding, or, in the event that neither Original Borrower nor a Borrower Principal Affiliate is Borrower under the Loan, deliver to Lender such reserve deposits as may be requested by Lender, to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon (unless Borrower has paid all of the Taxes or Other Charges under protest). Lender may pay over any such cash deposit or part thereof held by Lender to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established or the Property (or part thereof or interest

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therein) shall be in danger of being sold, forfeited, terminated, canceled or lost or there shall be any danger of the Lien of the Mortgage being primed by any related Lien.

#### SECTION 5.5. LITIGATION

Borrower shall give prompt written notice to Lender of any litigation or governmental proceedings pending or threatened in writing against Borrower which could reasonably be expected to materially adversely affect Borrower's condition (financial or otherwise) or business or the Property.

#### SECTION 5.6. ACCESS TO PROPERTY

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

#### SECTION 5.7. NOTICE OF DEFAULT

Borrower shall promptly advise Lender of any material adverse change in the condition (financial or otherwise) of Borrower, any Borrower Principal or the Property or of the occurrence of any Default or Event of Default of which Borrower has knowledge.

#### SECTION 5.8. COOPERATE IN LEGAL PROCEEDINGS

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

#### SECTION 5.9. PERFORMANCE BY BORROWER

Borrower shall in a timely manner observe, perform and fulfill each and every covenant, term and provision to be observed and performed by Borrower under this Agreement and the other Loan Documents and any other agreement or instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

#### SECTION 5.10. AWARDS; INSURANCE PROCEEDS

Borrower shall cooperate with Lender in obtaining for Lender the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with the Property, and Lender shall be reimbursed for any expenses incurred in connection therewith (including reasonable, actual attorneys' fees and disbursements, and the payment by Borrower of the expense of an appraisal on behalf of Lender in case of a Casualty or Condemnation affecting the Property or any part thereof) out of such Awards or Insurance Proceeds.

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#### SECTION 5.11. FINANCIAL REPORTING

(a) Borrower and Borrower Principal shall keep adequate books and records of account in accordance with methods acceptable to Lender in its reasonable discretion, consistently applied and shall furnish to Lender:

(i) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual certified rent rolls signed and dated by Borrower in the form prepared by Borrower in the ordinary course of the operation of its business and providing at least as much detail as contained in the rent rolls delivered to Lender in connection with the closing of the Loan, within twenty (20) days after the end of each calendar month, forty-five (45) days after the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable;

(ii) prior to a Securitization, at the request of Lender, monthly, and following a Securitization, quarterly and annual operating statements of the Property, prepared and certified by Borrower in the form used by Borrower in the ordinary course of its operations, detailing the revenues received, the expenses incurred and the net operating income before and after debt service (principal and interest) and major capital improvements for the period of calculation and containing appropriate year-to-date information, within twenty (20) days after the end of each calendar month, forty-five (45) days after

the end of each fiscal quarter or ninety (90) days after the close of each fiscal year of Borrower, as applicable; and

(iii) annually, with respect to MHC, financial statements (on a consolidated basis with MHCOP) prepared and audited by an Acceptable Accountant, within ninety (90) days of the close of each fiscal year of MHC and MHCOP, as applicable.

(b) Intentionally deleted.

(c) Borrower shall comply with the following:

(i) Intentionally deleted.

(ii) If requested by Lender, Borrower shall provide Lender, promptly upon request, with summaries of the financial statements referenced in Section 5.11(c)(ii)(A)-(D) below if, at the time a Disclosure Document is being prepared for a Securitization, it is expected that the principal amount of the Loan and any Affiliated Loans at the time of Securitization may, or if the principal amount of the Loan and any Affiliated Loans at any time during which the Loan and any Affiliated Loans are included in a Securitization does, equal or exceed 10% of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in a Securitization. Such summaries shall meet the requirements for "summarized financial information," as defined in Section 210.1-02(bb) of Regulation S-X, or such other requirements as may be reasonably determined to be necessary or appropriate by Lender.

(A) A balance sheet with respect to the Property for the two most recent fiscal years, meeting the requirements of Section 210.3-01 of Regulation S-X

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of the Securities Act and statements of income and statements of cash flows with respect to the Property for the three most recent fiscal years, meeting the requirements of Section 210.3-02 of Regulation S-X, and, to the extent that such balance sheet is more than 135 days old as of the date of the document in which such financial statements are included, interim financial statements of the Property meeting the requirements of Section 210.3-01 and 210.3-02 of Regulation S-X (all of such financial statements, collectively, the "Standard Statements"); provided, however, that with respect to a Property (other than properties that are hotels, nursing homes, or other properties that would be deemed to constitute a business and not real estate under Regulation S-X or other legal requirements) that has been acquired by Borrower from an unaffiliated third party (such Property, "Acquired Property"), as to which the other conditions set forth in Section 210.3-14 of Regulation S-X for provision of financial statements in accordance with such Section have been met, in lieu of the Standard Statements otherwise required by this section, Borrower shall instead provide the financial statements required by such Section 210.3-14 of Regulation S-X ("Acquired Property Statements").

(B) Not later than 30 days after the end of each fiscal quarter following the date hereof, a balance sheet of the Property as of the end of such fiscal quarter, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for the period commencing following the last day of the most recent fiscal year and ending on the date of such balance sheet and for the corresponding period of the most

recent fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(C) Not later than 75 days after the end of each fiscal year following the date hereof, a balance sheet of the Property as of the end of such fiscal year, meeting the requirements of Section 210.3-01 of Regulation S-X, and statements of income and statements of cash flows of the Property for such fiscal year, meeting the requirements of Section 210.3-02 of Regulation S-X.

(D) Within ten Business Days after notice from Lender in connection with the Securitization of this Loan, such additional financial statements, such that, as of the date (each an "Offering Document Date") of each Disclosure Document, Borrower shall have provided Lender with all financial statements as described in subsection (f) (i) above; provided that the fiscal year and interim periods for which such financial statements shall be provided shall be determined as of such Offering Document Date.

(iii) All financial statements provided by Borrower hereunder pursuant to Section 5.11(c) (ii) hereof shall be prepared in accordance with GAAP, and shall meet the requirements of Regulation S-X and other applicable legal requirements. All financial statements (audited or unaudited) provided by Borrower under this Section 5.11 shall be certified by an authorized officer or administrative member of Borrower, which certification shall state that such financial statements meet the requirements set forth in the first sentence of this Section 5.11(c) (iii).

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(iv) If requested by Lender, Borrower shall provide Lender, promptly upon request, with any other or additional financial statements, or financial, statistical or operating information, as Lender shall determine to be required pursuant to Regulation S-X or any amendment, modification or replacement thereto or other legal requirements in connection with any Disclosure Document or any filing under or pursuant to the Exchange Act in connection with or relating to a Securitization (hereinafter an "Exchange Act Filing") or as shall otherwise be reasonably requested by Lender.

(v) In the event Lender determines, in connection with a Securitization, that the financial statements required in order to comply with Regulation S-X or other legal requirements are other than as provided herein, then notwithstanding the provisions of Section 5.11(c) hereof, Lender may request, and Borrower shall promptly provide, such combination of Acquired Property Statement and/or Standard Statements or such other financial statements as Lender determines to be necessary or appropriate for such compliance.

(vi) Any reports, statements or other information required to be delivered under this Agreement shall be delivered in paper form and in the event that Lender requires financial statements in connection with subsection (c) above because the Loan when combined with the principal amount of any Affiliated Loans equal or exceed 20% of the aggregate principal amount of all mortgage loans included in a Securitization (defined below), Borrower shall deliver such reports, statements and other information (A) on a diskette, and (B) if requested by Lender and within the capabilities of Borrower's data systems without change or modification thereto, in electronic form and prepared using Microsoft Word for Windows or WordPerfect for Windows files (which files may be prepared using a spreadsheet program and saved as word processing files).

(d) Borrower and Borrower Principal shall furnish Lender with such other additional financial or management information (including state and federal tax returns) as may, from time to time, be reasonably required by Lender in form and substance satisfactory to Lender (including, without limitation, any financial reports required to be delivered by any Tenant or any guarantor of any Lease pursuant to the terms of such Lease), and shall furnish to Lender and its agents convenient facilities for the examination and audit of any such books and records.

(e) All items requiring the certification of Borrower shall, except where Borrower is an individual, require a certificate executed by the general partner, managing member or authorized/senior officer of Borrower, as applicable (and the same rules shall apply to any sole shareholder, general partner or managing member which is not an individual).

(f) Notwithstanding anything to the contrary contained herein, in no event shall Borrower be required to comply with the financial reporting requirements of Regulation S-X that would be applicable solely as a result of the principal amount of the Loan and any Affiliated Loans (at the time of Securitization) equaling or exceeding 20% of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in a Securitization.

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#### SECTION 5.12. ESTOPPEL STATEMENT

(a) After request by Lender, Borrower shall within fifteen (15) Business Days furnish Lender with a statement, duly acknowledged and certified, setting forth (i) the amount of the original principal amount of the Note, (ii) the rate of interest on the Note, (iii) the unpaid principal amount of the Note, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) that the Note, this Agreement, the Mortgage and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.

(b) Borrower shall use its reasonable efforts to deliver to Lender, promptly upon request, but subject to the terms of the applicable Major Leases that are either Ground Leases or Operating Leases, duly executed estoppel certificates from any one or more Tenants thereunder as required by Lender (but no more frequently than once every twelve (12) months provided no Event of Default has occurred and is continuing) attesting to such facts regarding the related Lease as Lender may reasonably require, including, but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, except as security, and that the Tenant claims no defense or offset against the full and timely performance of its obligations under the Lease.

#### SECTION 5.13. LEASING MATTERS.

(a) Except as otherwise consented to by Lender in writing, all Leases shall be written on the standard form of lease which shall have been (i) with respect to pad Leases, delivered to Lender in connection with the closing of the Loan and (ii) with respect to Operating Leases or Ground Leases, if any, approved by Lender, provided however that Lender acknowledges that to the extent any portion of the Property consists of a recreational vehicle resort, Borrower shall not be required to enter into written Leases with any occupant or tenant of such portion of the Property and such tenants and/or occupants of such recreational vehicle resorts shall be deemed month to month tenants or licensees of Borrower. So long as either Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Borrower may modify its standard form of pad lease in accordance with sound business practices and Legal Requirements, provided that the form of such Lease contains covenants and conditions that are consistent with those contained in comparable leases in the applicable local

market. Notwithstanding the foregoing, in the event that the majority of owners, managers and/or operators of comparable recreational vehicle resorts in the applicable local market enter into written Leases with the occupants of recreational vehicle resorts, Borrower shall be required to enter into written Leases with respect to such occupants, and the form of such lease shall contain terms and conditions that are consistent with those of Leases of comparable properties in the applicable market or sub-market. Upon request, Borrower (1) shall furnish Lender with executed copies of all Major Leases and (2) shall make available to Lender at Borrower's offices (upon reasonable notice to Borrower), executed copies of all other Leases. No material changes may be made to the Lender-approved standard form of Operating Lease and Ground Lease, if applicable, without the prior written consent of Lender. In addition, all renewals of Leases and all proposed leases shall provide for rental rates and terms comparable to existing local market rates and terms and, except with respect to one pad at the Property used for on-site community managers (or other employees of

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Manager), shall be arm's-length transactions with bona fide, independent third party tenants. All proposed Major Leases and renewals of existing Major Leases shall be subject to the prior approval of Lender and its counsel, at Borrower's expense. All Leases shall provide that they are subordinate to the Mortgage and that the tenant agrees to attorn to Lender.

(b) Borrower (i) shall observe and perform all the obligations imposed upon the landlord under the Leases and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (ii) shall enforce all of the material terms, covenants and conditions contained in the Leases upon the part of the Tenant thereunder to be observed or performed, short of termination thereof; provided however, with respect to pad leases, a pad Lease may be terminated in the event of a default by the tenant thereunder; (iii) with respect to any Leases (other than Leases relating to mobile home park pads or recreational vehicle resort pads), shall not collect any of the Rents more than one (1) month in advance; provided, however, that in no event shall Borrower collect any Rents under Leases (or any other applicable occupancy agreements (written or otherwise)) relating to mobile home park pads or recreational vehicle resort pads more than one (1) year in advance; (iv) shall not execute any other assignment of the landlord's interest in the Leases or the Rents; and (v) shall not consent to any assignment of or subletting under the Major Leases not in accordance with their terms, without the prior written consent of Lender.

(c) Notwithstanding the provisions of subsection (a) above, renewals of existing commercial Leases and proposed Leases for commercial space shall not be subject to the prior approval of Lender, provided all of the following conditions are satisfied: (i) the rental income pursuant to the renewal or proposed Lease is not more than five (5%) percent of the total rental income for the Property, (ii) the renewal or proposed Lease has a base term of less than six (6) years including options to renew, (iii) no rent, credits, free rents or concessions have been granted under the renewal or proposed Lease (except to the extent consistent with current market conditions), (iv) the renewal or proposed Lease is subject and subordinate to the Mortgage and the tenant thereunder shall have agreed to attorn to Lender, (v) the renewal or proposed Lease is on the standard form of lease approved by Lender, (vi) the renewal or proposed Lease does not contain any option, offer, right of first refusal, or other similar right to acquire all or any portion of the Property, and (vii) except with respect to the Operating Lease the renewal or proposed Lease provides for rental rates and terms comparable to existing market rates and terms and is an arm's-length transaction with a bona fide, independent third party tenant. Borrower shall deliver to Lender copies of all Leases which are entered into pursuant to the preceding sentence together with Borrower's certification that it has satisfied all of the conditions of the preceding sentence within thirty (30) days after the execution of the Lease.



(a) Borrower shall (i) promptly perform and observe all of the covenants required to be performed and observed by it under the Management Agreement and do all things necessary to preserve and to keep unimpaired its material rights thereunder; (ii) promptly notify Lender of any material default under the Management Agreement of which it is aware; (iii) promptly deliver to Lender a copy of any notice of default or other material notice received by Borrower under the Management Agreement; (iv) promptly give notice to Lender of any notice or information that Borrower receives which indicates that Manager is terminating the Management

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Agreement or that Manager is otherwise discontinuing its management of the Property; and (v) promptly enforce the performance and observance of all of the covenants required to be performed and observed by Manager under the Management Agreement.

(b) If at any time, (i) an Event of Default under Section 11.1(a) hereof has occurred and is continuing; or (ii) Manager is not an Affiliated Manager and either (A) a default has occurred and is continuing under the Management Agreement or (B) Manager has become insolvent or a debtor in a bankruptcy proceeding, Borrower shall, at the request of Lender, terminate the Management Agreement upon thirty (30) days prior notice to Manager and replace Manager with a Qualified Manager approved by Lender on terms and conditions satisfactory to Lender, it being understood and agreed that the management fee for such replacement manager shall not exceed then prevailing market rates.

(c) Intentionally deleted.

(d) Any entity Controlled by MHC or MHCOP shall be deemed Qualified Manager. Borrower shall not, without the prior written consent of Lender (which consent shall not be unreasonably withheld, conditioned or delayed): (i) surrender, terminate or cancel the Management Agreement or otherwise replace Manager or enter into any other management agreement with respect to the Property; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; or (iv) otherwise modify, change, supplement, alter or amend, or waive or release any of its rights and remedies under, the Management Agreement in any material respect, provided, however, that if Manager is Controlled by MHC or MHCOP, then Borrower shall have the right to enter into amendments to the Management Agreement (1) which are consistent with good operating practices, (2) which do not increase any of the fees or other similar charges payable by Borrower thereunder and (3) which do not otherwise materially increase any of Borrower's obligations thereunder, and Borrower shall have the right to enter into a new management agreement with another entity Controlled by MHC or MHCOP on substantially the same terms and conditions as those set forth in the Management Agreement approved by Lender in connection with the closing of the Loan and otherwise in accordance with the terms permitted hereunder, without the consent of Lender. In the event that Borrower replaces Manager at any time during the term of Loan pursuant to this subsection, such Manager shall be a Qualified Manager.

#### SECTION 5.15. LIENS

Borrower shall not, without the prior written consent of Lender, create, incur, assume or suffer to exist any Lien on any portion of the Property or permit any such action to be taken, except Permitted Encumbrances.

#### SECTION 5.16. DEBT CANCELLATION

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

SECTION 5.17. ZONING

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

SECTION 5.18. ERISA

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

(b) Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan, as requested by Lender in its sole discretion, that (i) Borrower is not and does not maintain an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(3) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) 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);

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

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

SECTION 5.19. NO JOINT ASSESSMENT

Borrower shall not suffer, permit or initiate the joint assessment of the Property with (a) any other real property constituting a tax lot separate from the Property, or (b) any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the Lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to the Property.

SECTION 5.20. RECIPROCAL EASEMENT AGREEMENTS

Borrower shall not enter into, terminate or modify (in any material respects) any REA without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Borrower shall enforce, comply with, and cause each of the parties to the REA to comply with all of the material economic terms and conditions contained in the REA. Lender acknowledges that it would be unreasonable to withhold its consent to Borrower entering

into an REA with an Affiliate owning property adjacent to the Property with respect to the use of certain amenities and facilities at the Property, provided

that (A) any such REA would not (i) have a material adverse affect on the Property or the Borrower, (ii) impose any material obligations on the Borrower, (B) the terms of any such REA provide that Borrower shall be paid fair market value for the use of such amenities and/or facilities under any such REA and (C) sufficient utilities, facilities and other amenities shall continue to be available to and serve the Property.

#### SECTION 5.21. ALTERATIONS

Lender's prior approval shall be required in connection with any alterations to any Improvements, exclusive of alterations to tenant spaces required under any Lease, (a) that may have a material adverse effect on the Property or (b) that, together with any other alterations undertaken at the same time (including any related alterations, improvements or replacements), are reasonably anticipated to have a cost in excess of the Alteration Threshold. Notwithstanding the provisions of subsection (b) above and provided that either the Original Borrower or a Borrower Principal Affiliate is Borrower under the Loan, Lender's prior approval shall not be required in connection with any alterations in excess of the Alteration Threshold, provided that Lender shall have received (a) a current Appraisal of the Property (or a letter update to the Appraisal delivered in connection with the closing of the Loan), (b) a certificate from Borrower and (c) such other evidence that would be satisfactory to a prudent institutional mortgage loan lender each indicating that such alterations will not impair (as security for the Loan) the fair market value of the real estate collateral portion of the Property, as determined by a prudent institutional secondary market lender. If the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements shall at any time exceed the Alteration Threshold and regardless of whether Lender's consent is required in connection with any such alterations, Borrower shall promptly deliver to Lender as security for the payment of such amounts and as additional security for Borrower's obligations under the Loan Documents any of the following: (i) cash, (ii) direct non-callable obligations of the United States of America or other obligations which are "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, to the extent acceptable to the applicable Rating Agencies, (iii) other securities acceptable to Lender and the Rating Agencies, or (iv) a completion bond, provided that such completion bond is acceptable to the Lender and the Rating Agencies. Such security shall be in an amount equal to the excess of the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements over the Alteration Threshold.

#### SECTION 5.22. TAX CREDITS

Borrower shall not claim a low income housing credit for the Property under Section 42 of the Internal Revenue Code without Lender's prior written consent.

#### SECTION 5.23. GOLF COURSE PROPERTIES.

Borrower Principal hereby agrees, until such time as Lender has exercised any of its remedies under Section 11.2 hereof to obtain an entry of a judgment of foreclosure, exercise any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, to cause to be maintained and continuously operated (other than through Borrower) the golf course located on

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the Property and all ancillary Improvements related thereto (including, without limitation, the clubhouse, the golf shop, and restaurant, if any) (collectively, the "Golf Course Operation") in a condition, quality, and standard equal to or exceeding the current condition, quality, and standard of the Golf Course Operation as of the date hereof (including, without limitation, the current physical condition of the course and applicable physical plant and the revenue operations).

ENTITY COVENANTS

SECTION 6.1. SINGLE PURPOSE ENTITY/SEPARATENESS

Until the Debt has been paid in full, Borrower represents, warrants and covenants as follows:

(a) Borrower has not and will not:

(i) engage in any business or activity other than the ownership, operation and maintenance of the Property, and activities incidental thereto;

(ii) acquire or own any assets other than (A) the Property, and (B) such incidental Personal Property as may be necessary for the operation of the Property;

(iii) merge into or consolidate with any Person, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;

(iv) fail to observe all organizational formalities, or fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the applicable Legal Requirements of the jurisdiction of its organization or formation, or amend, modify, terminate or fail to comply with the provisions of its organizational documents;

(v) own any subsidiary, or make any investment in, any Person;

(vi) commingle its assets with the assets of any other Person;

(vii) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) the Debt, (B) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (1) unsecured, (2) not evidenced by a note, (3) on commercially reasonable terms and conditions, and (4) due not more than sixty (60) days past the date incurred and paid on or prior to such date, and/or (C) financing leases and purchase money indebtedness incurred in the ordinary course of business relating to Personal Property on commercially reasonable terms and conditions; provided however, the aggregate amount of the indebtedness described in (B) and (C) shall not exceed at any time three percent (3%) of the outstanding principal amount of the Note;

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(viii) fail to 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; except that Borrower's financial position, assets, liabilities, net worth and operating results may be included in the consolidated financial statements of an Affiliate, provided that such consolidated financial statements indicate that Borrower is a separate legal entity and that it maintains separate books and records;

(ix) enter into any contract or agreement with any general partner, member, shareholder, principal, guarantor of the obligations of Borrower, or any Affiliate of the foregoing, except upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(x) maintain its assets in such a manner that it will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(xi) assume or guaranty the debts of any other Person, hold itself out to be responsible for the debts 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;

(xii) make any loans or advances to any Person;

(xiii) fail to file its own tax returns or files a consolidated federal income tax return with any Person (unless prohibited or required, as the case may be, by applicable Legal Requirements);

(xiv) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name or fail to correct any known misunderstanding regarding its separate identity;

(xv) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, provided, however, that any such failure to maintain adequate capital will not constitute a breach of this covenant if cash flow from the Property is insufficient for Borrower to maintain adequate capital as set forth above;;

(xvi) if it is a partnership or limited liability company, without the unanimous written consent of all of its partners or members, as applicable, and the written consent of 100% of the managers of Borrower (if any), including, without limitation, each Independent Director, (a) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any Creditors Rights Laws, (b) seek or consent to the appointment of a receiver, liquidator or any similar official, (c) take any action that might cause such entity to become insolvent, or (d) make an assignment for the benefit of creditors;

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(xvii) fail to allocate shared expenses (including, without limitation, shared office space and services performed by an employee of an Affiliate) among the Persons sharing such expenses and to use separate stationery, invoices and checks;

(xviii) make any distributions so as to render Borrower insolvent or cause Borrower to become unable to pay its own liabilities (including, without limitation, the salaries of its own employees, if any) from its own funds;

(xix) acquire obligations or securities of its partners, members, shareholders or other affiliates, as applicable; or

(xx) violate or cause to be violated the assumptions made with respect to Borrower and its principals in any opinion letter pertaining to substantive consolidation delivered to Lender in connection with the Loan; or

(xxi) If Borrower is a partnership or limited liability company, each general partner in the case of a general partnership, each general partner in the case of a limited partnership, or the managing member in the case of a limited liability company (each an

"SPE COMPONENT ENTITY") of Borrower, as applicable, shall be a corporation or a single member Delaware limited liability company whose sole asset is its interest in Borrower. Each SPE Component Entity (i) will at all times comply with each of the covenants, terms and provisions contained in Section 6.1(a)(iii) - (vi) and (viii) - (xxi), as if such representation, warranty or covenant was made directly by such SPE Component Entity; (ii) will not engage in any business or activity other than owning an interest in Borrower; (iii) will not acquire or own any assets other than its partnership, membership, or other equity interest in Borrower; (iv) will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation); (v) will at all times when the Loan is outstanding own at least a one hundredth of one percent (.01%) general partnership or managing membership interest in Borrower; and (vi) will cause Borrower to comply with the provisions of this Section 6.1 and Section 6.4. Prior to the withdrawal or the disassociation of any SPE Component Entity from Borrower, Borrower shall immediately appoint a new general partner or managing member whose articles of incorporation or limited liability company operating agreement, as applicable, are substantially similar to those of such SPE Component Entity and, if an opinion letter pertaining to substantive consolidation was required at closing, deliver a new opinion letter acceptable to Lender and the Rating Agencies with respect to the new SPE Component Entity and its equity owners. Notwithstanding the foregoing, to the extent Borrower is a single member Delaware limited liability company, so long as Borrower maintains such formation status, no SPE Component Entity shall be required.

(b) In the event Borrower is a single member Delaware limited liability company, the limited liability company agreement of Borrower (the "LLC AGREEMENT") shall provide that (i) upon the occurrence of any event that causes the sole member of Borrower ("MEMBER") to cease to be the member of Borrower (other than (A) upon an assignment by Member of all of its limited liability company interest in Borrower and the admission of the transferee in accordance with the Loan Documents and the LLC Agreement, or (B) the resignation of Member and the admission of an additional member of Borrower in accordance with the terms of the Loan

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Documents and the LLC Agreement), any person acting as Independent Director of Borrower shall, without any action of any other Person and simultaneously with the Member ceasing to be the member of Borrower, automatically be admitted to Borrower ("SPECIAL MEMBER") and shall continue Borrower without dissolution and (ii) Special Member may not resign from Borrower or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to Borrower as Special Member in accordance with requirements of Delaware law and (B) such successor Special Member has also accepted its appointment as an Independent Director. The LLC Agreement shall further provide that (i) Special Member shall automatically cease to be a member of Borrower upon the admission to Borrower of a substitute Member, (ii) Special Member shall be a member of Borrower that has no interest in the profits, losses and capital of Borrower and has no right to receive any distributions of Borrower assets, (iii) pursuant to Section 18-301 of the Delaware Limited Liability Company Act (the "ACT"), Special Member shall not be required to make any capital contributions to Borrower and shall not receive a limited liability company interest in Borrower, (iv) Special Member, in its capacity as Special Member, may not bind Borrower and (v) except as required by any mandatory provision of the Act, Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, Borrower, including, without limitation, the merger, consolidation or conversion of Borrower; provided, however, such prohibition shall not limit the obligations of Special Member, in its capacity as Independent Director, to vote on such matters required by the Loan Documents or the LLC Agreement. In order to implement the admission to Borrower of Special Member, Special Member shall execute a counterpart to the LLC Agreement. Prior to its admission to Borrower as Special

Member, Special Member shall not be a member of Borrower.

Upon the occurrence of any event that causes the Member to cease to be a member of Borrower, to the fullest extent permitted by law, the personal representative of Member shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of Member in Borrower, agree in writing (i) to continue Borrower and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Borrower, effective as of the occurrence of the event that terminated the continued membership of Member of Borrower in Borrower. Any action initiated by or brought against Member or Special Member under any Creditors Rights Laws shall not cause Member or Special Member to cease to be a member of Borrower and upon the occurrence of such an event, the business of Borrower shall continue without dissolution. The LLC Agreement shall provide that each of Member and Special Member waives any right it might have to agree in writing to dissolve Borrower upon the occurrence of any action initiated by or brought against Member or Special Member under any Creditors Rights Laws, or the occurrence of an event that causes Member or Special Member to cease to be a member of Borrower.

#### SECTION 6.2. CHANGE OF NAME, IDENTITY OR STRUCTURE

Borrower shall not change or permit to be changed (a) Borrower's name, (b) Borrower's identity (including its trade name or names), (c) Borrower's principal place of business set forth on the first page of this Agreement, (d) the corporate, partnership or other organizational structure of Borrower, each SPE Component Entity (if any), or Borrower Principal, (e) Borrower's state of organization, or (f) Borrower's organizational identification number, without in each case notifying Lender of such change in writing at least thirty (30) days prior to

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the effective date of such change and, in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender. In addition, Borrower shall not change or permit to be changed any organizational documents of Borrower or any SPE Component Entity (if any) if such change would adversely impact the covenants set forth in Section 6.1 and Section 6.4 hereof. Borrower authorizes Lender to file any financing statement or financing statement amendment required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property. If Borrower does not now have an organizational identification number and later obtains one, or if the organizational identification number assigned to Borrower subsequently changes, Borrower shall promptly notify Lender of such organizational identification number or change.

#### SECTION 6.3. BUSINESS AND OPERATIONS

Borrower will qualify to do business and will remain in good standing under the laws of the State as and to the extent the same are required for the ownership, maintenance, management and operation of the Property.

#### SECTION 6.4. INDEPENDENT DIRECTOR

(a) The organizational documents of Borrower or each SPE Component Entity (if any), as applicable, shall provide that at all times there shall be, and Borrower shall cause there to be, at least one manager (each an "INDEPENDENT DIRECTOR") of Borrower or such SPE Component Entity, as applicable, reasonably satisfactory to Lender each of whom are not at the time of such individual's initial appointment, and shall not have been at any time during the preceding five (5) years, and shall not be at any time while serving as a director of Borrower or such SPE Component Entity, as applicable, either (i) a shareholder

(or other equity owner) of, or an officer, director, partner, manager, member (other than as a Special Member in the case of single member Delaware limited liability companies), employee, attorney or counsel of, Borrower, such SPE Component Entity or any of their respective shareholders, partners, members, subsidiaries or affiliates; (ii) a customer or creditor of, or supplier to, Borrower or any of its respective shareholders, partners, members, subsidiaries or affiliates who derives any of its purchases or revenue from its activities with Borrower or such SPE Component Entity or any Affiliate of any of them; (iii) a Person who Controls or is under common Control with any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer; or (iv) a member of the immediate family of any such shareholder, officer, director, partner, manager, member, employee, supplier, creditor or customer.

(b) The organizational documents of Borrower or each SPE Component Entity (if any), as the case may be, shall provide that the manager of Borrower or such SPE Component Entity, as applicable, shall not take any action which, under the terms of any articles of organization or operating agreement, as applicable, requires an unanimous vote of the members and manager of Borrower or such SPE Component Entity, as the case may be, unless at the time of such action there shall be at least one manager who is an Independent Director. Borrower or such SPE Component Entity, as applicable, will not, without the unanimous written consent of

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its members and managers, including each Independent Director, on behalf of itself or Borrower, (i) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable Creditors Rights Laws; (ii) seek or consent to the appointment of a receiver, liquidator or any similar official; (iii) take any action that might cause such entity to become insolvent; or (iv) make an assignment for the benefit of creditors.

#### ARTICLE 7 NO SALE OR ENCUMBRANCE

##### SECTION 7.1. TRANSFER DEFINITIONS

For purposes of this Article 7 an "AFFILIATED MANAGER" shall mean any managing agent in which Borrower, Borrower Principal, any SPE Component Entity (if any) or any affiliate of such entities has, directly or indirectly, any legal, beneficial or economic interest; "CONTROL" shall mean the power to direct the management and policies of a Restricted Party, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise; "RESTRICTED PARTY" shall mean Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager, or any shareholder, partner, member or non-member manager, or any direct or indirect legal or beneficial owner of Borrower, Borrower Principal, any SPE Component Entity (if any), any Affiliated Manager or any non-member manager; and a "SALE OR PLEDGE" shall mean a voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, grant of any options with respect to, or any other transfer or disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest.

##### SECTION 7.2. NO SALE/ENCUMBRANCE

(a) Borrower shall not cause or permit a Sale or Pledge of the Property or any part thereof or any legal or beneficial interest therein nor permit a Sale or Pledge of an interest in any Restricted Party (in each case, a "PROHIBITED TRANSFER"), other than pursuant to Leases to Tenants in accordance with the provisions of Section 5.13, without the prior written consent of Lender.

(b) A Prohibited Transfer shall include, but not be limited to,



(i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) except to the extent permitted pursuant to Section 7.7 hereof, an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (iii) if a Restricted Party is a corporation, any merger, consolidation or Sale or Pledge of such corporation's stock or the creation or issuance of new stock in one or a series of transactions; (iv) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Sale or Pledge of the partnership interest of any general or limited partner or any profits or proceeds relating to such partnership interests or the creation or issuance of new partnership interests; (v) if a Restricted Party is a limited liability company, any merger or consolidation or the change,

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removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Sale or Pledge of the membership interest of any member or any profits or proceeds relating to such membership interest; or (vi) if a Restricted Party is a trust or nominee trust, any merger, consolidation or the Sale or Pledge of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests.

#### SECTION 7.3. PERMITTED TRANSFERS

(a) Notwithstanding the provisions of Section 7.2, the following transfers shall not be deemed to be a Prohibited Transfer: (i) a transfer by devise or descent or by operation of law upon the death of a member, partner or shareholder of a Restricted Party; (ii) the Sale or Pledge, in one or a series of transactions, of not more than forty-nine percent (49%) in the aggregate of the stock, limited partnership interests or non-managing membership interests (as the case may be) in Borrower; provided, however, no such transfers shall result in a change in Control in the Restricted Party or change in control of the Property, and as a condition to each such transfer, Lender shall receive not less than thirty (30) days prior written notice of such proposed transfer or (iii) the sale, transfer or issuance of stock in MHC provided that MHC is listed on the New York Stock Exchange or such other nationally recognized stock exchange. Notwithstanding the foregoing, any transfer that results in any Person owning in excess of forty-nine percent (49%) of the ownership interest in a Restricted Party shall comply with the requirements of Section 7.4 hereof, provided however, that with respect to transfers provided for in subsection (a)(iii) hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any such transfers.

(b) In addition to the foregoing and supplementing subsection (a) above, Lender's prior written consent shall not be required with respect to (i) direct or indirect transfers of interests in Borrower among MHC, MHCOP and their Affiliates, (ii) transfers of limited partnership interests in MHCOP, provided that MHC or an MHC Subsidiary remains the controlling general partner of MHCOP, (iii) the merger or consolidation of MHC or MHCOP without regard to whether MHC or MHCOP, as applicable, is the surviving entity or (iv) MHC's contribution of ownership interests in MHCOP to a MHC Subsidiary, provided that with respect to the transfers set forth in clauses (i), (ii), (iii) and (iv) above, the Property shall continue to be managed by Manager or a Qualified Manager and Borrower and any SPE Component Entity shall continue to comply with Article 6 hereof. Notwithstanding the requirements set forth in Section 7.4 hereof, Borrower shall not be required to deliver a revised substantive non-consolidation opinion to Lender in connection with any transfers permitted under this subsection (b)(ii), (iii) and (iv). "MHC SUBSIDIARY" means an entity (A) in which MHC directly owns at least a ninety-five percent (95%) interest and (B) that is under the Control of MHC.

#### SECTION 7.4. LENDER'S RIGHTS

Lender reserves the right to condition the consent to a Prohibited Transfer requested hereunder upon (a) a modification of the terms hereof and an assumption of the Note and the other Loan Documents as so modified by the proposed Prohibited Transfer, (b) receipt of payment of a transfer fee equal to one percent (1%) of the outstanding principal balance of the Loan and all of Lender's expenses incurred in connection with such Prohibited Transfer, (c)

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receipt of written confirmation from the Rating Agencies that the Prohibited Transfer will not result in a downgrade, withdrawal or qualification of the initial, or if higher, then current ratings issued in connection with a Securitization, or if a Securitization has not occurred, any ratings to be assigned in connection with a Securitization, (d) the proposed transferee's continued compliance with the covenants set forth in this Agreement (including, without limitation, the covenants in Article 6) and the other Loan Documents, (e) a new manager for the Property and a new management agreement satisfactory to Lender, and (f) the satisfaction of such other conditions and/or legal opinions as Lender shall determine in its sole discretion to be in the interest of Lender. All expenses incurred by Lender shall be payable by Borrower whether or not Lender consents to the Prohibited Transfer. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Prohibited Transfer made without Lender's consent. This provision shall apply to each and every Prohibited Transfer, whether or not Lender has consented to any previous Prohibited Transfer. Notwithstanding anything to the contrary contained in this Section 7.4, in the event a substantive non-consolidation opinion was delivered to Lender and the Rating Agencies in connection with the closing of the Loan, and if any Sale or Pledge permitted under this Article 7 results in any Person and its Affiliates owning in excess of forty-nine percent (49%) of the ownership interests in a Restricted Party, Borrower shall, prior to such transfer, and in addition to any other requirement for Lender consent contained herein, deliver a revised substantive non-consolidation opinion to Lender reflecting such Prohibited Transfer, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

#### SECTION 7.5. ASSUMPTION

Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer of the Property in its entirety to, and the related assumption of the Loan by, any Person (a "TRANSFEE") and Lender shall release Borrower and Borrower Principal from their obligations under the Loan (to the extent such obligations arise from events occurring after the date of the assumption), provided that each of the following terms and conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer not less than sixty (60) days before the date on which such transfer is scheduled to close and, concurrently therewith, all such information concerning the proposed Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000 (which fee shall be credited against the assumption fee payable in connection with such assumption). Lender shall have the right to approve or disapprove the proposed transfer based on its then current underwriting and credit requirements for similar loans secured by similar properties which loans are sold in the secondary market, such approval not to be unreasonably withheld. In determining whether to give or withhold its approval of the proposed transfer, Lender shall consider the experience and track record of Transferee and its principals in owning and operating facilities similar to the Property, the financial strength of Transferee and its principals, the general business standing of Transferee and its principals and Transferee's and

its principals' relationships and experience with

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contractors, vendors, tenants, lenders and other business entities; provided, however, that, notwithstanding Lender's agreement to consider the foregoing factors in determining whether to give or withhold such approval, such approval shall be given or withheld based on what Lender determines to be commercially reasonable and, if given, may be given subject to such conditions as Lender may deem reasonably appropriate;

(c) Borrower shall have paid to Lender, concurrently with the closing of such transfer, (i) a non-refundable assumption fee in an amount equal to one percent (1.0%) of the then outstanding principal balance of the Note (subject to credit for any previously paid non-refundable processing fees), and (ii) all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer;

(d) Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer, Transferee and its constituent partners, members or shareholders as Lender may require, shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate said assumption;

(e) Borrower and Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Property, as applicable, is vested in Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(g) Transferee shall have furnished to Lender, if Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Transferee and of the entities, if any, which are partners or members of Transferee. Transferee and such constituent partners, members or shareholders of Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(h) Transferee shall assume the obligations of Borrower under any Management Agreement or provide a new management agreement with a new manager which meets with the requirements of Section 5.14 hereof and assign to Lender as additional security such new management agreement;

(i) Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Transferee's formation documents provide for the matters described in subparagraph (g) above, (B) that the assumption of the Debt has been duly authorized, executed

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and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Transferee in accordance with their terms, (C) that Transferee and any entity which is a controlling stockholder, member or general partner of

Transferee, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

(j) if required by Lender, Lender shall have received confirmation in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(k) Borrower's obligations under the contract of sale pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.5; and

(l) in the event a substantive non-consolidation opinion was delivered to Lender in connection with the closing of the Loan, Transferee shall, prior to such transfer, deliver a new or updated substantive non-consolidation opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

A consent by Lender with respect to a transfer of the Property in its entirety to, and the related assumption of the Loan by, a Transferee pursuant to this Section 7.5 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the Property. Notwithstanding anything to the contrary contained in this Section 7.5, prior to a Securitization Lender's consent to any transfer of the Property and assumption of the Loan pursuant to this Section 7.5 shall not be required if the consideration to be paid to Borrower by the proposed Transferee is less than the appraised value of the Property as determined by Lender.

SECTION 7.6. INTENTIONALLY DELETED.

SECTION 7.7. ASSUMPTIONS IN CONNECTION WITH CERTAIN TRANSFERS TO AFFILIATES.

Notwithstanding the foregoing provisions of this Article 7, Lender shall not unreasonably withhold consent to a transfer (by deed or ground lease for nominal consideration), of a portion of the Property (the "AFFILIATE TRANSFER PORTION OF THE PROPERTY") to, and the related assumption of the Loan by, an Affiliate of Borrower (i) in which Borrower Principal owns, directly or indirectly, at least a 70% ownership interest or (ii) in which MHCOP owns, directly or indirectly, at least a 99% ownership interest (an "AFFILIATE TRANSFEREE") such Affiliate Transferee to be a co-obligor and co-mortgagee under the Loan and jointly and severally obligated thereunder, provided that, among other things, each of the following conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer and assumption not less than sixty (60) days before the date on which such transfer and assumption is scheduled to close and, concurrently therewith, all such information

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concerning the proposed Affiliate Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$10,000;

(c) Borrower shall have paid to Lender all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred by Lender in connection with the transfer and assumption;

(d) Affiliate Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 15 hereof and, prior to or concurrently with the closing of such transfer and assumption, Affiliate Transferee shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate

such transfer and assumption;

(e) Borrower and Affiliate Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new and/or amended security instruments, financing statements and financing statement amendments and other documents to the fullest extent permitted by applicable law, and shall execute any additional documents reasonably requested by Lender;

(f) Affiliate Transferee shall have furnished to Lender, if Affiliate Transferee is a corporation, partnership, limited liability company or other entity, all appropriate papers evidencing Affiliate Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Affiliate Transferee and of the entities, if any, which are partners or members of Affiliate Transferee. Affiliate Transferee and such constituent partners, members or shareholders of Affiliate Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 6 hereof;

(g) Affiliate Transferee shall (i) assume the obligations of Borrower under any Management Agreement as they relate to the Affiliate Transfer Portion of the Property, provided, however, that in the event the Affiliate Transfer Portion of the Property is operated solely as a sewage treatment and/or water treatment facility and operated solely by Affiliate Transferee (and Manager does not perform any services with respect to the Affiliate Transfer Portion of the Property), Affiliate Transferee shall not be required to assume the obligations of Borrower under the Management Agreement, and (ii) if applicable, execute an assignment to Lender of such Management Agreement as additional security for the Loan;

(h) Affiliate Transferee shall furnish an opinion of counsel satisfactory to Lender and its counsel (A) that Affiliate Transferee's formation documents provide for the matters described in subparagraph (f) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the Note, the Mortgage, this Agreement, the assumption agreement and the other Loan Documents are valid, binding and enforceable against Affiliate Transferee in accordance with their terms, (C) that Affiliate Transferee and any entity which is a controlling stockholder, managing or sole member or general partner of Affiliate Transferee, have been duly organized, and are in existence and good standing, and (E) with respect to such other matters as Lender may reasonably request;

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(i) if required by Lender, Lender shall have received confirmation in writing from the Rating Agencies that rate the Securities to the effect that the transfer will not result in a qualification, downgrade or withdrawal of any rating initially assigned or to be assigned to the Securities;

(j) Borrower's obligations under the contract of sale, if any, pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the terms and conditions of this Section 7.7;

(k) in the event an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower and Affiliate Transferee shall, prior to such transfer and assumption, deliver a new or updated Insolvency Opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies;

(l) Borrower shall deliver to Lender evidence which would be satisfactory to a prudent lender that (i) the Affiliate Transfer Portion of the Property has been legally split or subdivided from the remainder of the Property; (ii) after giving effect to such transfer, each of the Affiliate Transfer Portion of the Property and the balance of the Property conforms and is in compliance in all material respects with applicable Legal Requirements and

constitutes a separate tax lot and (iii) the Affiliate Transfer Portion of the Property is not necessary for the Property to comply with any zoning, building, land use or parking or other Legal Requirements applicable to the Property or for the then current use of the Property, including, without limitation, for access, driveways, parking, utilities or drainage or, to the extent that the Affiliate Transfer Portion of the Property is necessary for any such purposes, a reciprocal easement agreement has been executed and recorded that would allow the owner of the Property to continue to use the Affiliate Transfer Portion of the Property to the extent necessary for such purposes;

(m) Borrower shall deliver to Lender an endorsement to the Title Insurance Policy (i) extending the effective date of the Title Insurance Policy to the effective date of the transfer; (ii) confirming no change in the priority of the Mortgage on the Property (including the Affiliate Transfer Portion of the Property) or in the amount of the insurance or the coverage of the Property under the Title Insurance Policy; and (iii) insuring the rights and benefits under any new or amended reciprocal easement agreement or such other agreement required pursuant to subsection 7.7(1)(iii) hereof that has been executed and recorded, if any. Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Affiliate Transfer Portion of the Property, as applicable, is vested in Affiliate Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(n) not less than three (3) Business Days prior to the date of the transfer and assumption, Borrower delivers to Lender approvals to the transfer executed by any entities other than Lender holding Liens encumbering the Property or the Affiliate Transfer Portion of the Property (or holding any other interest therein that would be affected by the transfer), if and to the extent such approval is required pursuant to the terms of any of the documents evidencing or securing such Lien or interest;

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(o) Borrower and Affiliate Transferee have complied with any requirements applicable to the transfer in any Major Leases, REA's, operating agreements, parking agreements or other similar agreements affecting the Property or the Affiliate Transfer Portion of the Property and the transfer does not violate any of the provisions of such documents in any respect that would result in a termination (or give any other party thereto the right to terminate), extinguishment or other loss of material right of Borrower or in a material increase in Borrower's obligations under such documents and, to the extent necessary to comply with such documents, the Affiliate Transferee has assumed Borrower's obligations, if any, relating to the Affiliate Transfer Portion of the Property under such documents; and

(p) if a securitization shall have occurred, Borrower shall deliver to Lender one or more opinions of counsel for Borrower and Affiliate Transferee in form and substance and delivered by counsel which would be satisfactory to a prudent lender stating, among other things, that the transfer and assumption by Affiliate Transferee pursuant to this Section 7.7 (1) will not directly or indirectly result in or cause any REMIC Trust that then holds the Note to fail to maintain its status as a REMIC Trust and (2) will not cause any REMIC Trust to be an "investment company" under the Investment Company Act of 1940, at Borrower's cost; and

(q) Borrower delivers to Lender any other information, approvals and documents which would be required by a prudent Lender in connection with such transfer and assumption.

A consent by Lender with respect to a transfer of a portion of the Property to, and the related assumption of the Loan by, an Affiliate Transferee pursuant to this Section 7.7 shall not be construed to be a waiver of the right of Lender to consent to any subsequent transfer of the Property or assumption of the Loan. Notwithstanding any transfer and assumption to an Affiliate Transferee

pursuant to this Section 7.7, the Property and the Affiliate Transfer Portion of the Property shall be deemed a single Property for purposes of this Agreement and the Loan.

SECTION 7.8. ADDITIONAL PERMITTED TRANSFERS.

Notwithstanding anything to the contrary contained in this Article 7, Borrower may grant easements, restrictions, covenants, reservations and rights of way with respect to the Property in the ordinary course of business for water and sewer lines, telephone and telegraph lines, electric lines and other utilities or for other similar purposes, provided that such transfers, conveyances or encumbrances (i) shall not impair the utility and operation of the Property or materially adversely affect the value of the Property or adversely affect Borrower's ability to pay the Debt or the Monthly Payment Amount and (ii) shall be in a form that is reasonably acceptable to Lender.

ARTICLE 8

INSURANCE; CASUALTY; CONDEMNATION; RESTORATION

SECTION 8.1. INSURANCE

(a) Borrower shall obtain and maintain, or cause to be maintained, at all times insurance for Borrower and the Property providing at least the following coverages:

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(i) comprehensive "all risk" insurance (excluding terrorism coverage) on the Improvements and the Personal Property, in each case (A) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Agreement shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation; (B) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (C) providing for no deductible in excess of \$100,000 for all such insurance coverage; and (D) if any of the Improvements or the use of the Property shall at any time constitute legal non-conforming structures or uses, providing coverage for contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements and containing an "Ordinance or Law Coverage" or "Enforcement" endorsement. In addition, Borrower shall obtain: (y) if any portion of the Improvements is currently or at any time in the future located in a "special flood hazard area" designated by the Federal Emergency Management Agency, flood hazard insurance in an amount equal to the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended, and providing for no deductible in excess of \$250,000; and (z) earthquake insurance in amounts and in form and substance reasonably satisfactory to Lender in the event the Property is located in an area with a high degree of seismic risk, provided that the insurance pursuant to clauses (y) and (z) hereof shall be on terms consistent with the comprehensive all risk insurance policy required under this subsection (i);

(ii) Commercial General Liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Property, with such insurance (A) to be on the so-called "occurrence" form with a general aggregate limit of not less than \$2,000,000 and a per occurrence limit of not less than \$1,000,000; (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; and (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations; (3) independent contractors; (4) blanket

contractual liability; and (5) contractual liability covering the indemnities contained in Article 12 and Article 14 hereof to the extent the same is available;

(iii) loss of rents insurance or business income insurance, as applicable, (A) with loss payable to Lender; (B) covering all risks required to be covered by the insurance provided for in subsection (i) above; and (C) which provides that after the physical loss to the Improvements and Personal Property occurs, the loss of rents or income, as applicable, will be insured until completion of Restoration or the expiration of twelve (12) months, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period; and (D) which contains an extended period of indemnity endorsement which provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. The amount of such loss of rents or business

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income insurance, as applicable, shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross income from the Property for the succeeding period of coverage required above. All proceeds payable to Lender pursuant to this subsection shall be held by Lender and shall be applied to the obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured by the Loan Documents on the respective dates of payment provided for in the Note, this Agreement and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such loss of rents or business income insurance, as applicable;

(iv) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements, and only if the Property coverage form does not otherwise apply, (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in subsection (i) above written in a so-called Builder's Risk Completed Value form (1) on a non-reporting basis, (2) against "all risks" insured against pursuant to subsection (i) above, (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions;

(v) workers' compensation, subject to the statutory limits of the State, and employer's liability insurance in respect of any work or operations on or about the Property, or in connection with the Property or its operation (if applicable);

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

(vii) excess liability insurance in an amount not less than \$50,000,000 per occurrence on terms consistent with the commercial general liability insurance required under subsection (ii) above; and

(viii) upon sixty (60) days' written notice, such other reasonable insurance and in such reasonable amounts as Lender from time



to time may reasonably request against such other insurable hazards which at the time are commonly insured against for property similar to the Property located in or around the region in which the Property is located.

(b) All insurance provided for in Section 8.1(a) shall be obtained under valid and enforceable policies (collectively, the "POLICIES" or in the singular, the "POLICY"), and shall be subject to the approval of Lender as to insurance companies, amounts, deductibles, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the State and having a claims paying ability rating of either (1) "AA" or better by at least two Rating Agencies, one of which must be S&P or such other Rating Agencies approved by Lender or (2) at least A-/VII by A.M. Best Company, Inc. The Policies described in Section 8.1(a) shall designate Lender and its successors and assigns as additional insureds, mortgagees and/or loss payee as deemed appropriate by Lender. To the

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extent such Policies are not available as of the Closing Date, Borrower shall deliver certified copies of all Policies to Lender not later than thirty (30) days after the Closing Date. Not less than ten (10) days prior to the expiration dates of the Policies theretofore furnished to Lender, Borrower shall deliver to Lender certificates evidencing renewal of the Policies (such certificates, the "INSURANCE CERTIFICATES") accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "INSURANCE PREMIUMS") and within sixty (60) days after the expiration date of such Policies, Borrower shall deliver to Lender renewal Policies

(c) Any blanket insurance Policy shall specifically allocate to the Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions of Section 8.1(a).

(d) All Policies provided for or contemplated by Section 8.1(a), except for the Policy referenced in Section 8.1(a)(v), shall name Borrower as the insured, as its interests may appear, and in the case of property damage, boiler and machinery, flood and earthquake insurance, shall contain a so-called New York standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies provided for in Section 8.1(a) shall contain clauses or endorsements to the effect that:

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

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

(iii) the issuers thereof shall give written notice to Lender if the Policies have not been renewed thirty (30) days prior to its expiration; and

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

(f) If at any time Lender is not in receipt of written evidence that all insurance required hereunder is in full force and effect, Lender shall have the right, without notice to Borrower, to take such action as Lender deems

necessary to protect its interest in the Property, including, without limitation, obtaining such insurance coverage as Lender in its sole discretion deems appropriate. All premiums incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Borrower to Lender upon demand and, until paid, shall be secured by the Mortgage and shall bear interest at the Default Rate.

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#### SECTION 8.2. CASUALTY

If the Property shall be damaged or destroyed, in whole or in part in any material respect, by fire or other casualty (a "CASUALTY"), Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the Restoration of the Property in accordance with Section 8.4, whether or not Lender makes any Net Proceeds available pursuant to Section 8.4. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower. Borrower shall adjust all claims for Insurance Proceeds in consultation with, and approval of, Lender; provided, however, if an Event of Default has occurred and is continuing, Lender shall have the exclusive right to participate in the adjustment of all claims for Insurance Proceeds.

#### SECTION 8.3. CONDEMNATION

Borrower shall promptly give Lender notice of the actual or threatened commencement of any proceeding for the Condemnation of the Property of which Borrower has knowledge and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender may participate in any such proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Notwithstanding any taking by any public or quasi-public authority through Condemnation or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Agreement and the Debt shall not be reduced until any Award shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided herein or in the Note. If the Property or any portion thereof is taken by a condemning authority, Borrower shall promptly commence and diligently prosecute the Restoration of the Property and otherwise comply with the provisions of Section 8.4, whether or not Lender makes any Net Proceeds available pursuant to Section 8.4. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the Award, or a portion thereof sufficient to pay the Debt.

#### SECTION 8.4. RESTORATION

The following provisions shall apply in connection with the Restoration of the Property:

(a) If the Net Proceeds shall be less than \$250,000 and the costs of completing the Restoration shall be less than \$250,000, the Net Proceeds will be disbursed by Lender to Borrower upon receipt, provided that all of the conditions set forth in Section 8.4(b)(i) are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to

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satisfactorily complete with due diligence the Restoration in accordance with the terms of this Agreement.

(b) If the Net Proceeds are equal to or greater than \$250,000 or the costs of completing the Restoration are equal to or greater than \$250,000, Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Section 8.4. The term "NET PROCEEDS" for purposes of this Section 8.4 shall mean: (i) the net amount of all insurance proceeds received by Lender pursuant to Section 8.1(a)(i), (iv), (vi) and (viii) as a result of a Casualty, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("INSURANCE PROCEEDS"), or (ii) the net amount of the Award as a result of a Condemnation, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting the same ("CONDEMNATION PROCEEDS"), whichever the case may be.

(i) The Net Proceeds shall be made available to Borrower for Restoration provided that each of the following conditions are met:

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

(B) (1) in the event the Net Proceeds are Insurance Proceeds, less than twenty-five percent (25%) of the mobile home and/or recreational vehicle pads, as applicable, on the Property shall be rendered unusable for a period in excess of twelve (12) months as a result of a Casualty or (2) in the event the Net Proceeds are Condemnation Proceeds, less than fifteen percent (15%) of the rentable area of the Property and fifteen percent (15%) of the fair market value of the Land constituting the Property is taken, such land is located along the perimeter or periphery of the Property, and no portion of the permanent Improvements is located on such land;

(C) intentionally deleted;

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

(E) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note, which will be incurred with respect to the Property as a result of the occurrence of any such Casualty or Condemnation, whichever the case may be, will be covered out of the insurance coverage referred to in Section 8.1(a)(iii) above;

(F) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) six (6) months prior to the Maturity Date, (2) the earliest date required for such completion under the terms of any Major Leases, Ground Leases, if applicable, Operating Leases, if applicable, or material agreements affecting the Property, (3) such time as may be required under

applicable zoning law, ordinance, rule or regulation, or (4) the expiration of the insurance coverage referred to in Section 8.1(a)(iii);

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

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

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

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

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

(ii) The Net Proceeds shall be held by Lender until disbursements commence, and, until disbursed in accordance with the provisions of this Section 8.4, shall constitute additional security for the Debt and other obligations under the Loan Documents. The Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower on a monthly basis during the course of the Restoration in accordance with customary construction lending practices, upon receipt of evidence satisfactory to Lender that (A) all the conditions precedent to such advance, including those set forth in Section 8.4(b)(i), have been satisfied, (B) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the related Restoration item have been paid for in full, and (C) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property which have not either been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policy. Notwithstanding the foregoing, Insurance Proceeds from the Policies required to be maintained by Borrower pursuant to Section 8.1(a)(iii) shall be controlled by Lender at all times, shall not be subject to the provisions of this Section 8.4 and shall be used for the payment of all of the obligations due and payable under the Loan Documents for the entire time period for which any such Insurance Proceeds relate. After such application of the Insurance Proceeds, the remaining balance, if any, of any such proceeds shall be disbursed and/or applied as follows: (A) provided no Event of Default has occurred and is continuing, to Borrower and (B) upon the occurrence and during the continuance of an Event of Default, to Operating Expenses.

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(iii) All plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender and to the extent the Restoration relates to any permanent Improvements on the Property, by an independent consulting engineer selected by Lender (the "Restoration Consultant"). Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. To the extent the Restoration relates to any permanent Improvements on the Property, the identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as

the contracts in excess of \$100,000 under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Restoration Consultant. All costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration, including, without limitation, reasonable counsel fees and disbursements and the Restoration Consultant's fees, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Restoration Consultant, minus the Restoration Retainage. The term "Restoration Retainage" shall mean an amount equal to ten percent (10%) of the costs actually incurred for work in place as part of the Restoration, as certified by the Restoration Consultant, until the Restoration has been completed. The Restoration Retainage shall be reduced to five percent (5%) of the costs incurred upon receipt by Lender of satisfactory evidence that fifty percent (50%) of the Restoration has been completed. The Restoration Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Section 8.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Restoration Retainage shall not be released until the Restoration Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b) and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate Governmental Authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Restoration Retainage; provided, however, that Lender will release the portion of the Restoration Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Restoration Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company issuing the Title Insurance Policy, and Lender receives an endorsement to the Title Insurance Policy insuring the continued priority of the lien of the Mortgage and evidence of payment of any premium payable for such endorsement. If required by Lender, the release of any such portion of the Restoration Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

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(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every calendar month.

(vi) If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the reasonable opinion of Lender in consultation with the Restoration Consultant, as applicable, be sufficient to pay in full the balance of the costs which are estimated to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "Net Proceeds Deficiency") with Lender before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be held by Lender and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Section 8.4(b) shall constitute additional security for the

Debt and other obligations under the Loan Documents.

(vii) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after Borrower and the Restoration Consultant, to the extent applicable, certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 8.4(b), and the receipt by Lender of evidence satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be remitted by Lender to Borrower, provided no Event of Default shall have occurred and shall be continuing under the Note, this Agreement or any of the other Loan Documents.

(c) All Net Proceeds not required (i) to be made available for the Restoration or (ii) to be returned to Borrower as excess Net Proceeds pursuant to Section 8.4(b)(vii) may (x) be retained and applied by Lender toward the payment of the Debt whether or not then due and payable in such order, priority and proportions as Lender in its sole discretion shall deem proper, or, (y) at the sole discretion of Lender, the same may be paid, either in whole or in part, to Borrower for such purposes and upon such conditions as Lender shall designate.

(d) In the event of foreclosure of the Mortgage, or other transfer of title to the Property in extinguishment in whole or in part of the Debt, all right, title and interest of Borrower in and to the Policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure, Lender or other transferee in the event of such other transfer of title.

#### ARTICLE 9 RESERVE FUNDS

##### SECTION 9.1. REQUIRED REPAIRS

(a) Borrower shall make the repairs and improvements to the Property set forth on Schedule 2 and as more particularly described in the Physical Conditions Report prepared in connection with the closing of the Loan (such repairs hereinafter referred to as "REQUIRED REPAIRS"). Borrower shall complete the Required Repairs in a good and workmanlike manner on or before the date that is twelve (12) months from the date hereof or within such other time frame for completion specifically set forth on Schedule 2.

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##### SECTION 9.2. REPLACEMENTS

(a) On an ongoing basis throughout the term of the Loan, Borrower shall make capital repairs, replacements and improvements necessary to keep the Property in good order and repair and in a good marketable condition or prevent deterioration of the Property (the "REPLACEMENTS"). Borrower shall complete all Replacements in a good and workmanlike manner as soon as commercially reasonable after commencing to make each such Replacement.

(b) Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent to fund the Replacements (the "REPLACEMENT RESERVE ACCOUNT"). In addition, Borrower shall deposit \$4.17 monthly per pad (the "REPLACEMENT RESERVE MONTHLY DEPOSIT") into the Replacement Reserve Account on each Scheduled Payment Date during any Replacement Reserve Period. Amounts so deposited shall hereinafter be referred to as "REPLACEMENT RESERVE FUNDS."

##### SECTION 9.3. INTENTIONALLY DELETED.

##### SECTION 9.4. REQUIRED WORK

Borrower shall diligently pursue all Required Repairs and Replacements (collectively, the "REQUIRED WORK") to completion in accordance with the

following requirements:

(a) Lender reserves the right, at its option, to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors or other parties providing labor or materials in connection with the Required Work to the extent such contracts or work orders exceed \$100,000. Upon Lender's request, Borrower shall assign any contract or subcontract to Lender.

(b) In the event Lender determines in its reasonable discretion that any Required Work is not being or has not been performed in a workmanlike or timely manner, upon ten (10) days notice to Borrower and Borrower's failure to commence performance of such Required Work in accordance with this Section 9.4, Lender shall have the option to withhold disbursement for such unsatisfactory Required Work and to proceed under existing contracts or to contract with third parties to complete such Required Work and to apply Replacement Reserve Funds, if any, toward the labor and materials necessary to complete such Required Work, without providing any prior notice to Borrower and to exercise any and all other remedies available to Lender upon an Event of Default hereunder.

(c) In order to facilitate Lender's completion of the Required Work as permitted in subsection 9.4(b) above, Borrower grants Lender the right to enter onto the Property and perform any and all work and labor necessary to complete the Required Work and/or employ watchmen to protect the Property from damage. All sums so expended by Lender, to the extent not from the Reserve Funds, shall be deemed to have been advanced under the Loan to Borrower and secured by the Mortgage. For this purpose Borrower constitutes and appoints Lender its true and lawful attorney-in-fact with full power of substitution to complete or undertake the Required Work in the name of Borrower upon Borrower's failure to do so in a workmanlike and timely manner. Such power of attorney shall be deemed to be a power coupled with an interest and cannot be revoked. Borrower empowers said attorney-in-fact as follows: (i) to use any of the

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Reserve Funds for the purpose of making or completing the Required Work; (ii) to make such additions, changes and corrections to the Required Work as shall be reasonably necessary to complete the Required Work; (iii) to employ such contractors, subcontractors, agents, architects and inspectors as shall be required for such purposes; (iv) to pay, settle or compromise all existing bills and claims which are or may become Liens against the Property, or as may be reasonably necessary for the completion of the Required Work, or for clearance of title; (v) to execute all applications and certificates in the name of Borrower which may be required by any of the contract documents; (vi) to prosecute and defend all actions or proceedings in connection with the Property or the rehabilitation and repair of the Property; and (vii) to do any and every act which Borrower would be required to do on its own behalf to fulfill the terms of this Agreement.

(d) Nothing in this Section 9.4 shall: (i) make Lender responsible for making or completing the Required Work; (ii) require Lender to expend funds in addition to the Reserve Funds to make or complete any Required Work; (iii) obligate Lender to proceed with the Required Work; or (iv) obligate Lender to demand from Borrower additional sums to make or complete any Required Work.

(e) Borrower shall permit Lender and Lender's agents and representatives (including, without limitation, Lender's engineer, architect, or inspector) or third parties performing Required Work pursuant to this Section 9.4 to enter onto the Property during normal business hours (subject to the rights of tenants under their Leases) to inspect the progress of any Required Work and all materials being used in connection therewith, to examine all plans and shop drawings relating to such Required Work which are or may be kept at the Property, and to complete any Required Work made pursuant to this Section 9.4. Borrower shall cause all contractors and subcontractors to cooperate with Lender and Lender's representatives or such other persons described above in connection with inspections described in this Section 9.4 or the completion of Required

Work pursuant to this Section 9.4.

(f) Lender may, to the extent any Required Work would reasonably require an inspection of the Property, inspect the Property at Borrower's expense prior to making a disbursement of the Reserve Funds in order to verify completion of the Required Work for which reimbursement is sought. Borrower shall pay Lender a reasonable inspection fee not exceeding \$500 for each such inspection. Lender may require that such inspection be conducted by an appropriate independent qualified professional selected by Lender and/or may require a copy of a certificate of completion by an independent qualified professional acceptable to Lender prior to the disbursement of the Reserve Funds. Borrower shall pay the expense of the inspection as required hereunder, whether such inspection is conducted by Lender or by an independent qualified professional.

(g) The Required Work and all materials, equipment, fixtures, or any other item comprising a part of any Required Work shall be constructed, installed or completed, as applicable, free and clear of all mechanic's, materialman's or other Liens (except for Permitted Encumbrances).

(h) Before each disbursement of the Reserve Funds, if any, Lender may require Borrower to provide Lender with a search of title to the Property effective to the date of the

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disbursement, which search shows that no mechanic's or materialmen's or other Liens of any nature have been placed against the Property since the date of recordation of the Mortgage and that title to the Property is free and clear of all Liens (except for Permitted Encumbrances).

(i) All Required Work shall comply with all Legal Requirements in all material respects and applicable insurance requirements including, without limitation, applicable building codes, special use permits, environmental regulations, and requirements of insurance underwriters.

(j) Borrower hereby assigns to Lender all rights and claims Borrower may have against all Persons supplying labor or materials in connection with the Required Work; provided, however, that Lender may not pursue any such rights or claims unless an Event of Default has occurred and remains uncured.

#### SECTION 9.5. RELEASE OF RESERVE FUNDS

(a) Upon written request from Borrower and satisfaction of the requirements set forth in this Agreement, Lender shall disburse to Borrower amounts, if any, from the Replacement Reserve Account to the extent necessary to reimburse Borrower for the actual costs of any approved Replacements. Notwithstanding the preceding sentence, in no event shall Lender be required to (x) disburse funds from any of the Reserve Accounts if an Event of Default exists or (y) disburse funds (if any) from the Replacement Reserve Account to reimburse Borrower for the costs of routine repairs or maintenance to the Property or for costs which are to be reimbursed from funds held in any other Reserve Account.

(b) Each request for disbursement from any of the Reserve Accounts shall be on a form provided or approved by Lender and shall (i) include copies of invoices for all items or materials purchased and all labor or services provided and (ii) specify (A) the Required Work for which the disbursement is requested, (B) the quantity and price of each item purchased, if the Required Work includes the purchase or replacement of specific items, (C) the price of all materials (grouped by type or category) used in any Required Work other than the purchase or replacement of specific items, and (D) the cost of all contracted labor or other services applicable to each Required Work for which such request for disbursement is made. With each request Borrower shall certify that all Required Work has been performed in accordance with all Legal Requirements. Except as provided in Section 9.5(d), each request for



disbursement shall be made only after completion of the Replacement (or the portion thereof completed in accordance with Section 9.5(d)) for which disbursement is requested. Borrower shall provide Lender evidence satisfactory to Lender in its reasonable judgment of such completion or performance.

(c) Upon Borrower's request, Lender shall disburse funds from the Replacement Reserve Account to Borrower on a monthly basis, and Borrower shall use such funds to pay all invoices in connection with the Required Work with respect to which a disbursement is requested. In addition, as a condition to any disbursement, Lender may require Borrower to obtain lien waivers from each contractor, supplier, materialman, mechanic or subcontractor who receives payment in an amount equal to or greater than \$10,000 for completion of its work or delivery of its materials. Any lien waiver delivered hereunder shall conform to all Legal Requirements and shall cover all work performed and materials supplied (including equipment

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and fixtures) for the Property by that contractor, supplier, subcontractor, mechanic or materialman through the date covered by the current disbursement request (or, in the event that payment to such contractor, supplier, subcontractor, mechanic or materialmen is to be made by a joint check, the release of lien shall be effective through the date covered by the previous release of funds request).

(d) If (i) the cost of any item of Required Work exceeds \$25,000 and (ii) the contractor performing such Required Work requires periodic payments pursuant to terms of a written contract, a request for disbursement from the Reserve Accounts may be made after completion of a portion of the work under such contract, provided (A) such contract requires payment upon completion of such portion of work, (B) the materials for which the request is made are on site at the Property and are properly secured or have been installed in the Property, (C) all other conditions in this Agreement for disbursement have been satisfied, and (D) in the case of a Replacement, funds remaining in the Replacement Reserve Account are, in Lender's judgment, sufficient to complete such Replacement and other Replacements when required.

(e) Borrower shall not make a request for, nor shall Lender have any obligation to make, any disbursement from any Reserve Account more frequently than once in any calendar month and (except in connection with the final disbursement) in any amount less than the lesser of (i) \$10,000 or (ii) the total cost of the Required Work for which the disbursement is requested.

(f) Intentionally deleted.

(g) Intentionally deleted.

(h) Lender's disbursement of any Reserve Funds or other acknowledgment of completion of any Required Work in a manner satisfactory to Lender shall not be deemed a certification or warranty by Lender to any Person that the Required Work has been completed in accordance with Legal Requirements.

(i) If the funds in any Reserve Account should exceed the amount of payments actually applied by Lender for the purposes of the account, Lender in its sole discretion shall either return any excess to Borrower or credit such excess against future payments to be made to that Reserve Account. In allocating any such excess, Lender may deal with the Person shown on Lender's records as being the owner of the Property.

(j) The insufficiency of any balance in any of the Reserve Accounts shall not relieve Borrower from its obligation to fulfill all preservation and maintenance covenants in the Loan Documents.

(k) INTENTIONALLY DELETED.

(l) Upon termination of the Replacement Reserve Period or payment

in full of the Debt, all amounts remaining on deposit, if any, in the Replacement Reserve Account shall be returned to Borrower or the Person shown on Lender's records as being the owner of the Property and no other party shall have any right or claim thereto.

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#### SECTION 9.6. TAX AND INSURANCE RESERVE FUNDS

Borrower shall establish on the date hereof an Eligible Account with Lender or Lender's agent sufficient to discharge Borrower's obligations for the payment of Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof (the "TAX AND INSURANCE RESERVE ACCOUNT"). Borrower shall deposit into the Tax and Insurance Reserve Account on each Scheduled Payment Date during any Tax and Insurance Reserve Period (a) one-twelfth of the Taxes that Lender estimates will be payable during the next ensuing twelve (12) months or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Taxes at least thirty (30) days prior to the earlier of (i) the date that the same will become delinquent and (ii) the date that additional charges or interest will accrue due to the non-payment thereof, and (b) except to the extent Lender has waived the insurance escrow because the insurance required hereunder is maintained under a blanket insurance Policy acceptable to Lender in accordance with Section 8.1(c), one-twelfth of the Insurance Premiums that Lender estimates will be payable during the next ensuing twelve (12) months for the renewal of the coverage afforded by the Policies upon the expiration thereof or such higher amount necessary to accumulate with Lender sufficient funds to pay all such Insurance Premiums at least thirty (30) days prior to the expiration of the Policies (said amounts in (a) and (b) above hereinafter called the "TAX AND INSURANCE RESERVE FUNDS"). Lender will apply the Tax and Insurance Reserve Funds to payments of Taxes and Insurance Premiums required to be made by Borrower pursuant to Section 5.4 and Section 8.1 hereof. In making any disbursement from the Tax and Insurance Reserve Account, Lender may do so according to any bill, statement or estimate procured from the appropriate public office or tax lien service (with respect to Taxes) or insurer or agent (with respect to Insurance Premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If the amount of the Tax and Insurance Reserve Funds shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Section 5.4 and Section 8.1 hereof, Lender shall, in its sole discretion, return any excess to Borrower or credit such excess against future payments to be made to the Tax and Insurance Reserve Account. In allocating any such excess, Lender may deal with the person shown on Lender's records as being the owner of the Property. Any amount remaining in the Tax and Insurance Reserve Account after the Debt has been paid in full shall be returned to Borrower or the person shown on Lender's records as being the owner of the Property and no other party shall have any right or claim thereto. If at any time Lender reasonably determines that the Tax and Insurance Reserve Funds are not or will not be sufficient to pay Taxes and Insurance Premiums by the dates set forth in (a) and (b) above, Lender shall notify Borrower of such determination and Borrower shall pay to Lender any amount necessary to make up the deficiency within ten (10) days after notice from Lender to Borrower requesting payment thereof.

#### SECTION 9.7. EXCESS CASH

Borrower shall establish on the date hereof a sub-account of the Cash Management Account into which Borrower shall deposit all Excess Cash on each Scheduled Payment Date during any Cash Management Period (the "EXCESS CASH RESERVE ACCOUNT"). Amounts so deposited shall hereinafter be referred to as the "EXCESS CASH RESERVE FUNDS." Sums from the Excess Cash Reserve Account shall be disbursed to Borrower's Account upon the discontinuation of a Cash Management Period.

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SECTION 9.8. TERRORISM RESERVE.

Upon the occurrence of an Act of Terror (i) Borrower shall establish an Eligible Account with Lender or Lender's agent (the "TERRORISM RESERVE ACCOUNT") and (ii) Borrower Principal shall immediately deposit into the Terrorism Reserve Account an amount equal to the sum of the three (3) Monthly Payment Amounts that would be payable by Borrower for the three (3) Scheduled Payment Dates immediately following the occurrence of such Act of Terror. Amounts so deposited shall hereinafter be referred to as the "TERRORISM RESERVE FUNDS". "ACT OF TERROR" shall mean any foreign acts of terrorism or similar acts of sabotage (excluding acts of war or nuclear, chemical and biological acts) in which the Property is directly affected by such acts. Lender shall apply Terrorism Reserve Funds, if any, to any amounts due hereunder.

SECTION 9.9. RESERVE FUNDS GENERALLY

(a) Funds on deposit in the Reserve Accounts shall be held by Lender or any Loan servicer, as applicable, and invested in Permitted Investments as directed by Lender, and interest shall be credited to Borrower. All such interest shall be and become part of the applicable Reserve Accounts and shall be disbursed in accordance with Section 9.5 above, provided, however, that Lender may, at its election, retain any such interest for its own account for application to the Debt in accordance with this Agreement and the other Loan Documents during the occurrence and continuance of an Event of Default. Borrower agrees that it shall include all interest on the applicable Reserve Funds as the income of Borrower (and, if Borrower is a partnership or other pass-through entity, the partners, members or beneficiaries of Borrower, as the case may be), and shall be the owner of the applicable Reserve Funds for federal and applicable state and local tax purposes.

(b) Borrower grants to Lender a first-priority perfected security interest in, and assigns and pledges to Lender, each of the Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts as additional security for payment of the Debt. Until expended or applied in accordance herewith, the Reserve Accounts and the Reserve Funds shall constitute additional security for the Debt. The provisions of this Section 9.9 are intended to give Lender or any subsequent holder of the Loan "control" of the Reserve Accounts within the meaning of the UCC.

(c) The Reserve Accounts and any and all Reserve Funds now or hereafter deposited in the Reserve Accounts shall be subject to the exclusive dominion and control of Lender, which shall hold the Reserve Accounts and any or all Reserve Funds now or hereafter deposited in the Reserve Accounts subject to the terms and conditions of this Agreement. Borrower shall have no right of withdrawal from the Reserve Accounts or any other right or power with respect to the Reserve Accounts or any or all of the Reserve Funds now or hereafter deposited in the Reserve Accounts, except as expressly provided in this Agreement.

(d) Lender shall furnish or cause to be furnished to Borrower, without charge, an annual accounting of each Reserve Account in the normal format of Lender or its loan servicer, showing credits and debits to such Reserve Account and the purpose for which each debit to each Reserve Account was made.

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(e) As long as no Event of Default has occurred and is continuing, Lender shall make disbursements from the Reserve Accounts in accordance with this Agreement. All such disbursements shall be deemed to have been expressly pre-authorized by Borrower, and shall not be deemed to constitute the exercise by Lender of any remedies against Borrower unless an Event of Default has occurred and is continuing and Lender has expressly stated in writing its intent to proceed to exercise its remedies as a secured party, pledgee or lienholder with respect to the Reserve Accounts.

(f) If any Event of Default occurs, Borrower shall immediately

lose all of its rights to receive disbursements from the Reserve Accounts until the earlier to occur of (i) the date on which such Event of Default is cured to Lender's satisfaction, or (ii) the payment in full of the Debt. In addition, at Lender's election, Borrower shall lose all of its rights to receive interest on the Reserve Accounts during the occurrence and continuance of an Event of Default. Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured party, pledgee and lienholder with respect to the Reserve Accounts. Without limitation of the foregoing, during the continuance of any Event of Default, Lender may use and disburse the Reserve Funds (or any portion thereof) for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses, fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents; (D) payment of any item from any of the Reserve Accounts as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Reserve Funds and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Reserve Funds to effect a cure of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

(g) The Reserve Funds shall not constitute escrow or trust funds and may be commingled with other monies held by Lender. Notwithstanding anything else herein to the contrary, Lender may commingle in one or more Eligible Accounts any and all funds controlled by Lender, including, without limitation, funds pledged in favor of Lender by other borrowers, whether for the same purposes as the Reserve Accounts or otherwise. Without limiting any other provisions of this Agreement or any other Loan Document, the Reserve Accounts may be established and held in such name or names as Lender or its loan servicer, as agent for Lender, shall deem appropriate, including, without limitation, in the name of Lender or such loan servicer as agent for Lender. In the case of any Reserve Account which is held in a commingled account, Lender or its loan servicer, as applicable, shall maintain records sufficient to enable it to determine at all times which portion of such account is related to the Loan. The Reserve

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Accounts are solely for the protection of Lender. With respect to the Reserve Accounts, Lender shall have no responsibility beyond the allowance of due credit for the sums actually received by Lender or beyond the reimbursement or payment of the costs and expenses for which such accounts were established in accordance with their terms. Upon assignment of the Loan by Lender, any Reserve Funds shall be turned over to the assignee and any responsibility of Lender as assignor shall terminate. The requirements of this Agreement concerning Reserve Accounts in no way supersede, limit or waive any other rights or obligations of the parties under any of the Loan Documents or under applicable law.

(h) Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in the Reserve Accounts or the Reserve Funds deposited therein or permit any Lien to attach thereto, except for the security interest granted in this Section 9.9, or any levy to be made thereon, or any UCC Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto.

(i) Borrower will maintain the security interest created by this Section 9.9 as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Reserve Accounts and the Reserve Funds against the claims and demands of all Persons whomsoever. At any time and from time to time, upon the written request of Lender, and at the sole expense of Borrower, Borrower will promptly and duly execute and deliver such further instruments and documents and will take such further actions as Lender reasonably may request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted.

ARTICLE 10  
CASH MANAGEMENT

SECTION 10.1. LOCKBOX ACCOUNT AND CASH MANAGEMENT ACCOUNT

(a) Borrower acknowledges and confirms that Borrower has established, and Borrower covenants that it shall maintain, (i) pursuant to the Lockbox Agreement, an Eligible Account into which Borrower shall, and shall cause Manager to, deposit or cause to be deposited, all Rents and other revenue from the Property (such account, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "LOCKBOX ACCOUNT"), and (ii) an Eligible Account with Lender or any Loan servicer, as applicable, into which funds in the Lockbox Account shall be transferred pursuant to the terms of Section 10.2(b) hereof (such account, the sub-accounts thereof, all funds at any time on deposit therein and any proceeds, replacements or substitutions of such account or funds therein, are referred to herein as the "CASH MANAGEMENT ACCOUNT").

(b) The Lockbox Account and Cash Management Account shall each be in the name of Borrower for the benefit of Lender, as secured party, provided that Borrower shall be the owner of all funds on deposit in such accounts for federal and applicable state and local tax purposes. Sums on deposit in the Cash Management Account shall not be invested except in such Permitted Investments as determined and directed by Lender and all income earned thereon shall be the income of Borrower and be applied to and become part of the Cash Management Account, to be disbursed in accordance with this Article 10. Neither Lockbox Bank nor Lender

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shall have any liability for any loss resulting from the investment of funds in Permitted Investments in accordance with the terms and conditions of this Agreement.

(c) The Lockbox Account and Cash Management Account shall be subject to the exclusive dominion and control of Lender and, except as otherwise expressly provided herein, neither Borrower, Manager nor any other party claiming on behalf of, or through, Borrower or Manager, shall have any right of withdrawal therefrom or any other right or power with respect thereto.

(d) Borrower agrees to pay the customary fees and expenses of Lockbox Bank (incurred in connection with maintaining the Lockbox Account) and Lender (incurred in connection with maintaining the Cash Management Account) and any successors thereto in connection therewith, as separately agreed by them from time to time.

(e) Lender shall be responsible for the performance only of such duties with respect to the Cash Management Account as are specifically set forth herein, and no duty shall be implied from any provision hereof. Lender shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own monies. Borrower shall indemnify and hold Lender and its directors, employees, officers and agents harmless from and against any loss, cost or damage (including, without limitation, reasonable attorneys' fees and disbursements) incurred by such parties in connection with the Cash Management

Account other than such as result from the gross negligence or willful misconduct of Lender or intentional nonperformance by Lender of its obligations under this Agreement.

SECTION 10.2. DEPOSITS AND WITHDRAWALS

(a) Borrower represents, warrants and covenants that:

(i) Concurrently with the execution of this Agreement, Borrower shall notify and advise Manager to deposit directly into the Lockbox Account all payments of Rents or any other item payable under such Leases pursuant to an instruction letter in the form of Exhibit A attached hereto (a "RENT DIRECTION LETTER"). If Borrower fails to provide any such notice (and without prejudice to Lender's rights with respect to such default), Lender shall have the right, and Borrower hereby grants to Lender a power of attorney (which power of attorney shall be coupled with an interest and irrevocable so long as any portion of the Debt remains outstanding), to sign and deliver a Rent Direction Letter;

(ii) Borrower shall, and shall cause Manager to, instruct all Persons that maintain open accounts with Borrower or Manager with respect to the Property or with whom Borrower or Manager does business on an "accounts receivable" basis with respect to the Property to deliver all payments due under such accounts to the Lockbox Account. Neither Borrower nor Manager shall direct any such Person to make payments due under such accounts in any other manner;

(iii) All Rents or other income from the Property shall (A) be deemed additional security for payment of the Debt and shall be held in trust for the benefit, and as the property, of Lender, (B) not be commingled with any other funds or property of

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Borrower or Manager, and (C) if received by Borrower notwithstanding the delivery of a Rent Direction Letter, be deposited in the Lockbox Account within one (1) Business Day of receipt;

(iv) Without the prior written consent of Lender, so long as any portion of the Debt remains outstanding, Borrower shall not terminate, amend, revoke or modify any Rent Direction Letter in any manner whatsoever or direct or cause Manager to pay any amount in any manner other than as provided in the Rent Direction Letter; and

(v) So long as any portion of the Debt remains outstanding, neither Borrower, Manager nor any other Person shall open or maintain any accounts other than the Lockbox Account into which revenues from the ownership and operation of the Property are deposited. The foregoing shall not prohibit Borrower from utilizing one or more separate accounts for the disbursement or retention of funds that have been transferred to Borrower pursuant to the express terms of this Agreement.

(b) Provided no Event of Default has occurred, at all times other than during a Cash Management Period, Lockbox Bank shall, on each Business Day, withdraw all collected and available funds in excess of \$2,500 (funds are not available if, in the reasonable determination of Lockbox Bank, such funds are subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing their withdrawal) held in the Lockbox Account and disburse such funds to the Borrower Account. Upon the occurrence and during the continuance of a Cash Management Period, Lockbox Bank shall (and Lender shall instruct Lockbox Bank to), on each Business Day, withdraw all collected and available funds (funds are not available if, in the reasonable determination of Lockbox Bank, such funds are subject to a bank hold or freeze (pursuant to applicable Legal Requirements), dispute or legal process preventing

their withdrawal) held in the Lockbox Account and transfer by wire transfer or other method of transfer mutually agreeable to Lockbox Bank and Lender to the Cash Management Account to be held until disbursed by Lender pursuant to Section 10.2(c). Provided no Event of Default has occurred and is continuing, upon the earlier to occur of (a) payment in full of the Debt or (b) the discontinuation of a Cash Management Period, Lockbox Bank shall no longer transfer funds in the Lockbox Account to the Cash Management Account in accordance with this subsection (b) and shall transfer funds (if any) in the Lockbox Account to the Borrower Account or, upon payment in full of the Debt, as otherwise directed by Borrower. In the event a Cash Management Period occurs three times during the term of the Loan and if required by the Lockbox Bank, Borrower shall not be entitled to any rights to the withdrawal of funds from the Lockbox Account during the remaining term of the Loan, the Cash Management Period shall continue, and Lender shall continue to have the right to the withdrawal of funds from the Lockbox Account until the Debt is paid in full.

(c) During a Cash Management Period, on each Scheduled Payment Date (and if such day is not a Business Day, then the immediately preceding day which is a Business Day) commencing the month immediately following the month during which the Cash Management Period commences, Borrower hereby irrevocably authorizes Lender to withdraw or allocate to the sub-accounts of the Cash Management Account, as the case may be, amounts received in the Cash Management Account, in each case to the extent that sufficient funds remain therefor and Lender may, at its option, withdraw or allocate such funds as follows:

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(i) during a Tax and Insurance Reserve Period, funds sufficient to pay the monthly deposits to the Tax and Insurance Reserve Account shall be allocated to the Tax and Insurance Reserve Account to be held and disbursed in accordance with Section 9.6;

(ii) funds sufficient to pay the Monthly Payment Amount (or an amount up to the entire amount of the Debt upon an acceleration of the Loan in accordance with the terms hereof), shall be withdrawn and paid to Lender;

(iii) during a Replacement Reserve Period, funds sufficient to pay the Replacement Reserve Monthly Deposit shall be allocated to the Replacement Reserve Account to be held and disbursed in accordance with Section 9.5;

(iv) funds sufficient to pay any interest accruing at the Default Rate, late payment charges, if any, and any other sums due and payable to Lender under any of the Loan Documents, shall be withdrawn and paid to Lender and applied against such items;

(v) funds sufficient to pay Lockbox Bank for all costs and expenses incurred by Lockbox Bank in connection with the maintenance and administration of the Lockbox Account;

(vi) funds sufficient to pay Lender or any Loan servicer, as applicable, the customary fees and expenses incurred in connection with maintaining the Cash Management Account; and

(vii) funds in an amount equal to the balance (if any) remaining on deposit in the Cash Management Account after the foregoing withdrawals and allocations shall be deposited in the Excess Cash Reserve Account to be held and disbursed in accordance with Section 9.7. Upon the discontinuance of a Cash Management Period, funds (if any) on deposit in the Excess Cash Reserve Account shall be transferred to Borrower's Account.

(d) Notwithstanding anything to the contrary herein, Borrower acknowledges that Borrower is responsible for monitoring the sufficiency of funds deposited in the Cash Management Account and that Borrower is liable for

any deficiency in available funds, irrespective of whether Borrower has received any account statement, notice or demand from Lender or Lender's servicer. If the amount on deposit in the Cash Management Account is insufficient to make all of the withdrawals and allocations described in Section 10.2(c) (i) through (vi) above, Borrower shall deposit such deficiency into the Cash Management Account within five (5) days (provided that such five day period shall not constitute a grace period for any default or Event of Default under this Agreement or any other Loan Document based on a failure to satisfy any monetary obligation provided in any Loan Document).

(e) Notwithstanding anything to the contrary contained herein, if an Event of Default shall have occurred and be continuing, Borrower hereby irrevocably authorizes Lender to make any and all withdrawals from the Lockbox Account and Cash Management Account and transfers between any of the Reserve Accounts as Lender shall determine in Lender's sole and absolute discretion and Lender may use all funds contained in any such accounts for any purpose, including but not limited to repayment of the Debt in such order, proportion and priority

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as Lender may determine in its sole and absolute discretion. Lender's right to withdraw and apply funds as stated herein shall be in addition to all other rights and remedies provided to Lender under this Agreement, the Note, the Mortgage and the other Loan Documents.

#### SECTION 10.3. SECURITY INTEREST

(a) To secure the full and punctual payment of the Debt and performance of all obligations of Borrower now or hereafter existing under this Agreement and the other Loan Documents, Borrower hereby grants to Lender a first-priority perfected security interest in the Lockbox Account and Cash Management Account, all interest, cash, checks, drafts, certificates and instruments, if any, from time to time deposited or held therein, any and all amounts invested in Permitted Investments, and all "proceeds" (as defined in the UCC as in effect in the state in which the Lockbox Account and Cash Management Account are located or maintained) of any or all of the foregoing. Furthermore, Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in any of the foregoing or permit any Lien to attach thereto or any levy to be made thereon or any UCC Financing Statements to be filed with respect thereto. Borrower will maintain the security interest created by this Section 10.3(a) as a first priority perfected security interest and will defend the right, title and interest of Lender in and to the Lockbox Account and Cash Management Account against the claims and demands of all Persons whomsoever.

(b) Borrower authorizes Lender to file any financing statement or statements required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein in connection with the Lockbox Account and Cash Management Account. Borrower agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly and duly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby (including, without limitation, any security interest in and to any Permitted Investments) or to enable Lender to exercise and enforce its rights and remedies hereunder.

(c) Upon the occurrence and during the continuance of an Event of Default, Lender may exercise any or all of its rights and remedies as a secured party, pledgee and lienholder with respect to the Lockbox Account and Cash Management Account. Without limitation of the foregoing, upon any Event of Default, Lender may use the Lockbox Account and Cash Management Account for any of the following purposes: (A) repayment of the Debt, including, but not limited to, principal prepayments and the prepayment premium applicable to such full or partial prepayment (as applicable); (B) reimbursement of Lender for all losses,



fees, costs and expenses (including, without limitation, reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default; (C) payment of any amount expended in exercising any or all rights and remedies available to Lender at law or in equity or under this Agreement or under any of the other Loan Documents; (D) payment of any item as required or permitted under this Agreement; or (E) any other purpose permitted by applicable law; provided, however, that any such application of funds shall not cure or be deemed to cure any Event of Default. Without limiting any other provisions hereof, each of the remedial actions described in the immediately preceding sentence shall be deemed to be a commercially reasonable exercise of Lender's rights and remedies as a secured party with respect to the Lockbox Account and Cash Management

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Account and shall not in any event be deemed to constitute a setoff or a foreclosure of a statutory banker's lien. Nothing in this Agreement shall obligate Lender to apply all or any portion of the Lockbox Account or Cash Management Account to effect a cure of any Event of Default, or to pay the Debt, or in any specific order of priority. The exercise of any or all of Lender's rights and remedies under this Agreement or under any of the other Loan Documents shall not in any way prejudice or affect Lender's right to initiate and complete a foreclosure under the Mortgage.

SECTION 10.4. DEFINITIONS. Notwithstanding anything to the contrary contained herein, For purposes of this Article 10 only, Business Day shall mean a day on which Lender and Lockbox Bank are both open for the conduct of substantially all of their respective banking business at the office in the city in which the Note is payable, with respect to Lender and at the office in the city where the Lockbox Account is maintained, with respect to Lockbox Bank (in both instances, excluding Saturdays and Sundays).

#### ARTICLE 11 EVENTS OF DEFAULT; REMEDIES

##### SECTION 11.1. EVENT OF DEFAULT

The occurrence of any one or more of the following events shall constitute an "EVENT OF DEFAULT":

(a) if any portion of the Debt is not paid prior to the tenth (10th) calendar day following the date the same is due or if the entire Debt is not paid on or before the Maturity Date;

(b) except as otherwise expressly provided in the Loan Documents, if any of the Taxes or Other Charges are not paid when the same are due and payable, unless there is sufficient money in the Tax and Insurance Reserve Account for payment of amounts then due and payable and Lender's access to such money has not been constrained or restricted in any manner;

(c) if the Policies are not kept in full force and effect, or if the Insurance Certificates or certified copies of the Policies are not delivered to Lender as provided in Section 8.1;

(d) if Borrower breaches (i) any covenant with respect to itself or any SPE Component Entity (if any) contained in Article 6 and (A) such breach is not cured within ten (10) days of the occurrence thereof and (B) if an Insolvency Opinion was delivered to Lender in connection with the closing of the Loan, Borrower fails to deliver to Lender, within such ten (10) day period, a new or revised Insolvency Opinion, in form and substance, and from a source satisfactory to Lender and if the Loan has been Securititized, the Rating Agencies, to the effect that such breach does not negate or impair the opinion previously delivered to Lender, or (ii) any covenant contained in Article 7 hereof;

(e) if any representation or warranty of, or with respect to, Borrower, Borrower Principal, any SPE Component Entity, or any member, general

partner, principal or beneficial owner of any of the foregoing, made herein, in any other Loan Document, or in any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the

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closing of the Loan or during the term of the Loan shall have been false or misleading in any material respect when made;

(f) if (i) Borrower, or any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall commence any case, proceeding or other action (A) under any Creditors Rights Laws, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) any case, proceeding or other action 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 for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) Borrower, any managing member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(g) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property, whether it be superior or junior in lien to the Mortgage;

(h) if the Property becomes subject to any mechanic's, materialman's or other Lien other than a Lien for any Taxes or Other Charges not then due and payable and the Lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of sixty (60) days;

(i) if any federal tax lien is filed against Borrower, any member or general partner of Borrower, Borrower Principal, or any SPE Component Entity (if any) or the Property and same is not discharged of record within sixty (60) days after same is filed;

(j) if a final non-appealable judgment is filed against Borrower in excess of \$500,000 which is not vacated or discharged within 45 days;

(k) intentionally deleted;

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(l) if Borrower shall permit any event within its control to occur that would cause any material REA to terminate without notice or action by any party thereto or would entitle any party to terminate any material REA and the

term thereof by giving notice to Borrower; or any material REA shall be surrendered, terminated or canceled for any reason or under any circumstance whatsoever except as provided for in such REA; or any term of any material REA shall be modified or supplemented in any material respect without Lender's prior written consent; or Borrower shall fail, within ten (10) Business Days after demand by Lender, to exercise its option to renew or extend the term of any material REA or shall fail or neglect to pursue diligently all actions necessary to exercise such renewal rights pursuant to such REA except as provided for in such REA; or

(m) if Borrower shall continue to be in default under any other term, covenant or condition of this Agreement or any of the Loan Documents (including, but not limited to, any guaranty or indemnity, but excluding Section 5.23) for more than ten (10) days after notice from Lender in the case of any default which can be cured by the payment of a sum of money or for thirty (30) days after notice from Lender in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days.

#### SECTION 11.2. REMEDIES

(a) Upon the occurrence and during the continuance of an Event of Default (other than an Event of Default described in Section 11.1(f) above) and at any time thereafter (until such Event of Default is cured) Lender may, in addition to any other rights or remedies available to it pursuant to this Agreement and the other Loan Documents or at law or in equity, take such action, without notice or demand, that Lender deems advisable to protect and enforce its rights against Borrower and in the Property, including, without limitation, declaring the Debt to be immediately due and payable, and Lender may enforce or avail itself of any or all rights or remedies provided in the Loan Documents against Borrower and the Property, including, without limitation, all rights or remedies available at law or in equity; and upon any Event of Default described in Section 11.1(f) above, the Debt and all other obligations of Borrower hereunder and under the other Loan Documents shall immediately and automatically become due and payable, without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in any other Loan Document to the contrary notwithstanding.

(b) Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to Lender against Borrower under this Agreement or any of the other Loan Documents executed and delivered by, or applicable to, Borrower or at law or in equity may be exercised by Lender at any time and from time to time, whether or not all or any of the Debt shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Loan Documents with respect to the Property. Any such actions taken by Lender shall be cumulative and concurrent and may be pursued independently, singularly, successively, together or otherwise, at such time and in such order as Lender may

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determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by law, equity or contract or as set forth herein or in the other Loan Documents.

#### ARTICLE 12 ENVIRONMENTAL PROVISIONS

#### SECTION 12.1. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants, to its knowledge based upon an Environmental Report of the Property and information that Borrower knows or should reasonably have known, that: (a) there are no Hazardous Materials or underground storage tanks in, on, or under the Property, except those that are both (i) in compliance with Environmental Laws and with permits issued pursuant thereto (if such permits are required), if any, and (ii) either (A) in the case of Hazardous Materials, in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing pursuant to an Environmental Report; (b) there are no past, present or threatened Releases of Hazardous Materials in violation of any Environmental Law or which would require remediation by a Governmental Authority in, on, under or from the Property except as described in the Environmental Report; (c) there is no threat of any Release of Hazardous Materials migrating to the Property except as described in the Environmental Report; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Property except as described in the Environmental Report; (e) Borrower has not received any written notice or other communication from any Person relating to Hazardous Materials in, on, under or from the Property; and (f) Borrower has truthfully and fully provided to Lender, in writing, any and all information relating to material environmental conditions in, on, under or from the Property known to Borrower or contained in Borrower's files and records, including but not limited to any reports relating to Hazardous Materials in, on, under or migrating to or from the Property and/or to the environmental condition of the Property.

#### SECTION 12.2. ENVIRONMENTAL COVENANTS

Borrower covenants and agrees that so long as Borrower owns, manages, is in possession of, or otherwise controls the operation of the Property: (a) all uses and operations on or of the Property, whether by Borrower or any other Person, shall be in material compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases (in violation of any Environmental Laws) of Hazardous Materials in, on, under, or from the Property; (c) there shall be no Hazardous Materials in, on, or under the Property, except those that are both (i) in material compliance with all Environmental Laws and with permits issued pursuant thereto, if and to the extent required, and (ii) (A) in amounts not in excess of that necessary to operate the Property for the purposes set forth herein or (B) fully disclosed to and approved by Lender in writing; (d) Borrower shall keep the Property free and clear of all Environmental Liens; (e) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Section 12.4 below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (f) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property, pursuant to any

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reasonable written request of Lender, upon Lender's reasonable belief that the Property is not in full compliance with all Environmental Laws, and share with Lender the reports and other results thereof, and Lender and other Indemnified Parties shall be entitled to rely on such reports and other results thereof; (g) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (i) reasonably effectuate remediation of any Hazardous Materials in, on, under or from the Property; and (ii) comply in all material respects with any Environmental Law; (h) Borrower shall not allow any tenant or other user of the Property to violate any Environmental Law; and (i) Borrower shall immediately notify Lender in writing after it has become aware of (A) any presence or Release or threatened Release of Hazardous Materials in, on, under, from or migrating towards the Property; (B) any material non-compliance with any Environmental Laws related in any way to the Property; (C) any actual or potential Environmental Lien against the Property; (D) any required or proposed remediation of environmental conditions relating to the Property; and (E) any written notice or other communication of which Borrower becomes aware from any source whatsoever (including but not limited to a Governmental Authority)

relating in any way to Hazardous Materials.

#### SECTION 12.3. LENDER'S RIGHTS

Lender and any other Person designated by Lender, including but not limited to any representative of a Governmental Authority, and any environmental consultant, and any receiver appointed by any court of competent jurisdiction, shall have the right, but not the obligation, to enter upon the Property at all reasonable times (upon reasonable notice) to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lender's reasonable discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Borrower shall cooperate with and provide access to Lender and any such person or entity designated by Lender.

#### SECTION 12.4. OPERATIONS AND MAINTENANCE PROGRAMS

If recommended by the Environmental Report or any other environmental assessment or audit of the Property, Borrower shall establish and comply with an operations and maintenance program with respect to the Property, in form and substance reasonably acceptable to Lender, prepared by an environmental consultant reasonably acceptable to Lender, which program shall address any asbestos-containing material or lead based paint that may now or in the future be detected at or on the Property. Without limiting the generality of the preceding sentence, Lender may require (a) periodic notices or reports to Lender in form, substance and at such intervals as Lender may specify, (b) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters, (c) at Borrower's sole expense, supplemental examination of the Property by consultants specified by Lender, (d) access to the Property by Lender, its agents or servicer, to review and assess the environmental condition of the Property and Borrower's compliance with any operations and maintenance program, and (e) variation of the operations and maintenance program in response to the reports provided by any such consultants.

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#### SECTION 12.5. ENVIRONMENTAL DEFINITIONS

"ENVIRONMENTAL LAW" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other government directives or requirements, as well as common law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, that apply to Borrower or the Property and relate to Hazardous Materials or protection of human health or the environment. "ENVIRONMENTAL LIENS" means all Liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other Person. "ENVIRONMENTAL REPORT" means the written reports resulting from the environmental site assessments of the Property delivered to Lender in connection with the Loan. "HAZARDOUS MATERIALS" shall mean petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls 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 Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a "hazardous substance," "hazardous material," "hazardous waste", "toxic substance", "toxic pollutant", "contaminant", or "pollutant" within the meaning of any Environmental Law. "RELEASE" of any Hazardous Materials includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

SECTION 12.6. INDEMNIFICATION

(a) [Borrower and Borrower Principal covenant and agree at their sole cost and expense, to protect, defend, indemnify, release and hold Indemnified Parties harmless from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (i) any presence of any Hazardous Materials in, on, above, or under the Property; (ii) any past, present or threatened Release of Hazardous Materials in, on, above, under or from the Property; (iii) any activity by Borrower, any Person affiliated with Borrower, and any Tenant or other user of the Property in connection with any actual, proposed or threatened use, treatment, storage, holding, existence, disposition or other Release, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Hazardous Materials at any time located in, under, on or above the Property or any actual or proposed remediation of any Hazardous Materials at any time located in, under, on or above the Property, whether or not such remediation is voluntary or pursuant to court or administrative order, including but not limited to any removal, remedial or corrective action; (iv) any past, present or threatened non-compliance or violations of any Environmental Laws (or permits issued pursuant to any Environmental Law) in connection with the Property or operations thereon, including but not limited to any failure by Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property to comply with any order of any Governmental Authority in connection with any Environmental Laws; (v) the imposition, recording or filing or the threatened imposition,

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recording or filing of any Environmental Lien encumbering the Property; (vi) any acts of Borrower, any person or entity affiliated with Borrower, and any tenant or other user of the Property in (A) arranging for disposal or treatment, or arranging with a transporter for transport for disposal or treatment, of Hazardous Materials at any facility or incineration vessel containing such or similar Hazardous Materials or (B) accepting any Hazardous Materials for transport to disposal or treatment facilities, incineration vessels or sites from which there is a Release, or a threatened Release of any Hazardous Substance which causes the incurrence of costs for remediation; and (vii) any misrepresentation or inaccuracy in any representation or warranty or material breach or failure to perform any covenants or other obligations pursuant to this Agreement relating to environmental matters (the matters listed in clauses (i) through (vii) above are each hereinafter referred to as an "ENVIRONMENTAL PROBLEM".

(b) Upon written request by any Indemnified Party, Borrower and Borrower Principal shall defend same (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their reasonable discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Borrower and Borrower Principal shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

(c) Notwithstanding the foregoing, Borrower shall have no liability for any Losses imposed upon or incurred by or asserted against any Indemnified Parties and described in subsection (a) above to the extent that Borrower can conclusively prove both that such Losses were caused solely by actions, conditions or events that occurred after the date that Lender (or any purchaser at a foreclosure sale) actually acquired title to the Property and that such Losses were not caused by the direct or indirect actions of Borrower, Borrower Principal, or any partner, member, principal, officer, director,

trustee or manager of Borrower or Borrower Principal or any employee, agent, contractor or Affiliate of Borrower or Borrower Principal. The obligations and liabilities of Borrower and Borrower Principal under this Section 12.6 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, provided however, that in the event (i) the Debt is paid in full in the ordinary course, (ii) Borrower delivers to Lender a Phase I environmental site assessment with respect to the Property which concludes that the Property does not contain any Hazardous Materials and is not subject to any significant risk of contamination from any off site Hazardous Materials in violation of the representations, warranties, and covenants set forth in this Article 12 Agreement, as determined by Lender, (iii) no Event of Default exists and is continuing, (iv) Lender has not exercised any of its remedies under Section 11.2 hereof to obtain an entry of a judgment of foreclosure, exercise any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage, (v) as of the date of determination, all of the representations and warranties contained in this Article 12 are true and correct, as determined by Lender and (vi) there has been no change, between the date hereof and the date the Loan is paid in full, in any Environmental Law which would impose liability on a mortgagee or lender with respect to any Environmental Problem notwithstanding the payment in full of the Loan, Borrower and Borrower Principal shall

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be released from its obligations under this Agreement on the third (3rd) anniversary of the date on which items (i)-(vi) above are satisfied.

#### ARTICLE 13 SECONDARY MARKET

##### SECTION 13.1. TRANSFER OF LOAN

Lender may, at any time, sell, transfer or assign the Loan Documents, or grant participations therein ("PARTICIPATIONS") or syndicate the Loan ("SYNDICATION") or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement ("SECURITIES") (a Syndication or the issuance of Participations and/or Securities, a "SECURITIZATION").

##### SECTION 13.2. DELEGATION OF SERVICING

At the option of Lender, the Loan may be serviced by a servicer/trustee selected by Lender and Lender may delegate all or any portion of its responsibilities under this Agreement and the other Loan Documents to such servicer/trustee pursuant to a servicing agreement between Lender and such servicer/trustee.

##### SECTION 13.3. DISSEMINATION OF INFORMATION

Lender may forward to each purchaser, transferee, assignee, or servicer of, and each participant, or investor in, the Loan, or any Participations and/or Securities or any of their respective successors (collectively, the "INVESTOR") or any Rating Agency rating the Loan, or any Participations and/or Securities, each prospective Investor, and any organization maintaining databases on the underwriting and performance of commercial mortgage loans, all documents and information which Lender now has or may hereafter acquire relating to the Debt and to Borrower, any managing member or general partner thereof, Borrower Principal, any SPE Component Entity (if any) and the Property, including financial statements, whether furnished by Borrower or otherwise, as Lender determines necessary or desirable. Borrower irrevocably waives any and all rights it may have under applicable Legal Requirements to prohibit such disclosure, including but not limited to any right of privacy. In the event of a conflict between any of the provisions of this Section 13.3 and paragraph 5 of that certain letter agreement dated as of August 25, 2003 by Banc of America Securities LLC and accepted and agreed to by Borrower Principal (the "ADVISORY

AGREEMENT") (the provisions of which are set forth on Schedule 2, attached hereto) relating to, among other things, confidentiality and the dissemination of certain confidential information, the provisions of the Advisory Agreement shall control.

#### SECTION 13.4. COOPERATION

At the request of the holder of the Note and, to the extent not already required to be provided by Borrower under this Agreement, Borrower and Borrower Principal shall use reasonable efforts to provide updates of the information (i) delivered by Borrower under Section 3.20 hereof or (ii) required to be delivered by Borrower under Article 5 hereof, including, without limitation, to:

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(a) provide updated financial, budget and other information with respect to the Property, Borrower, Borrower Principal and Manager (all of the foregoing being referred to as the "PROVIDED INFORMATION");

(b) make changes to the organizational documents of Borrower, any SPE Component Entity and their respective principals;

(c) at Borrower's expense, cause counsel to render or update existing opinion letters as to enforceability and non-consolidation, which may be relied upon by the holder of the Note, the Rating Agencies and their respective counsel, which shall be dated as of the closing date of the Securitization;

(d) at Lender's sole cost and expense, permit site inspections in accordance with the terms of this Agreement, appraisals, market studies and other due diligence investigations of the Property, as may be reasonably requested by the holder of the Note or the Rating Agencies or as may be necessary or appropriate in connection with the Securitization;

(e) intentionally deleted;

(f) execute such amendments to the Loan Documents as may be requested by the holder of the Note or the Rating Agencies or otherwise to effect the Securitization including, without limitation, bifurcation of the Loan into two or more components and/or separate notes and/or creating a senior/subordinate note structure; provided, however, that Borrower shall not be required to modify or amend any Loan Document if such modification or amendment would (i) change the interest rate, the stated maturity or the amortization of principal set forth in the Note, except in connection with a bifurcation of the Loan which may result in varying fixed interest rates and amortization schedules, but which shall have the same initial weighted average coupon of the original Note, or (ii) in the reasonable judgment of Borrower, modify or amend any other material economic term of the Loan, or (iii) in the reasonable judgment of Borrower, materially increase Borrower's obligations and liabilities under the Loan Documents;

(g) deliver to Lender and/or any Rating Agency one or more certificates executed by an officer of Borrower certifying as to the accuracy, as of the closing date of the Securitization, of all representations made by Borrower in the Loan Documents as of the Closing Date or, if such representations are no longer accurate, certifying as to what modifications to the representations would be required to make such representations accurate as of the closing date of the Securitization;

(h) have reasonably appropriate personnel participate in a bank meeting and/or presentation for the Rating Agencies or Investors;

(i) cooperate with and assist Lender in obtaining ratings of the Securities from two (2) or more of the Rating Agencies; and

(j) if required by any Rating Agency, deliver, at Borrower's sole



cost and expense and within fifteen (15) Business Days of Lender's request therefore, (1) opinions relating to certain aspects of federal and Delaware law and Borrower's status as a single member Delaware limited liability company thereunder and (2) an Insolvency Opinion, which such opinions shall

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be given by a law firm acceptable to such Rating Agency and shall otherwise be in form and substance acceptable to such Rating Agency. Lender hereby acknowledges that Borrower may deliver such opinions in one consolidated opinion that, together with the Loan, addresses other Loans (made by Lender) relating to Affiliates of Borrower, provided that such opinion adequately identifies Borrower, the Property and other applicable matters relating to the Loan. In addition, Borrower shall make any changes to its organizational documents to the extent required in connection with the issuance of such opinions, provided that such changes shall not result in an adverse economic effect to Borrower.

All reasonable third party costs and expenses incurred by Borrower in connection with Borrower's complying with requests made under this Section 13.4 shall be paid by Borrower. Lender shall be responsible for all of its out-of-pocket costs in connection with a securitization.

In the event that Borrower requests any consent or approval hereunder and the provisions of this Agreement or any Loan Documents require the receipt of written confirmation from each Rating Agency with respect to the rating on the Securities, or, in accordance with the terms of the transaction documents relating to a Securitization, such a rating confirmation is required in order for the consent of Lender to be given, Borrower shall pay all of the costs and expenses of Lender, Lender's servicer and each Rating Agency in connection therewith, and, if applicable, shall pay any fees imposed by any Rating Agency as a condition to the delivery of such confirmation. Lender agrees, upon request, to use commercially reasonable efforts to cooperate with Borrower and to facilitate Borrower's efforts to obtain any such rating confirmation as required hereunder, which cooperation shall include supplying the Rating Agencies with copies of reports, documents and other information and materials provided to Lender by Borrower, provided however, that in no event shall (1) Lender be required to incur any costs or expenses (other than de minimus costs or expenses) in connection with such cooperation or (2) Lender's agreement hereunder to cooperate with Borrower in obtaining a rating confirmation obligate Lender to institute (or threaten to institute) or participate in (or threaten to participate in) any litigation, suits, or proceedings at law or in equity against any Rating Agency in connection with Borrower's efforts to obtain such rating confirmation.

#### SECTION 13.5. SECURITIZATION INDEMNIFICATION

(a) Borrower understands that certain of the Provided Information may be included in disclosure documents in connection with the Securitization, including, without limitation, a prospectus, prospectus supplement, offering memorandum or private placement memorandum (each, a "DISCLOSURE DOCUMENT") and may also be included in filings with the Securities and Exchange Commission pursuant to the Securities Act or the Exchange Act, or provided or made available to investors or prospective investors in the Securities, the Rating Agencies, and service providers relating to the Securitization. In the event that the Disclosure Document is required to be revised prior to the sale of all Securities, Borrower will cooperate with the holder of the Note in updating the Disclosure Document by providing all current information required to be delivered by Borrower under Article 5 hereof necessary to keep the Disclosure Document accurate and complete in all material respects.

(b) Borrower agrees to provide in connection with each of (i) a preliminary and a final offering memorandum or private placement memorandum or similar document (including

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any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or (ii) a preliminary and final prospectus or prospectus supplement, as applicable, an indemnification certificate (A) indemnifying Lender (and for purposes of this Section 13.5, Lender hereunder shall include its officers and directors) and the Affiliate of Lender that (i) has filed the registration statement, if any, relating to the Securitization and/or (ii) which is acting as issuer, depositor, sponsor and/or a similar capacity with respect to the Securitization (any Person described in (i) or (ii), an "ISSUER PERSON") and each director and officer of any Issuer Person, and each Person or entity who controls any Issuer Person within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the "ISSUER GROUP") for any Losses to which Lender or the Issuer Group may become subject insofar as the Losses arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or necessary in order to make the statements in such sections (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan) or in light of the circumstances under which they were made, not misleading (collectively the "SECURITIES LIABILITIES") and (B) agreeing to reimburse Lender and the Issuer Group for any legal or other expenses reasonably incurred by Lender and Issuer Group in connection with investigating or defending the Securities Liabilities; provided, however, that Borrower will be liable in any such case under clauses (A) or (B) above only to the extent that any such Securities Liabilities arise out of or is based upon any such untrue statement or omission made therein in reliance upon and in conformity with information furnished to Lender or any member of the Issuer Group by or on behalf of Borrower in connection with the Provided Information. This indemnity agreement will be in addition to any liability which Borrower may otherwise have. Moreover, the indemnification provided for in Clauses (A) and (B) above shall be effective in the event an indemnification certificate certifying that Borrower has carefully examined any preliminary or a final offering memorandum described above or prospectus or other document (including any Investor or Rating Agency "term sheets" or presentations relating to the Property and/or the Loan), as applicable, including without limitation, the sections entitled "Special Considerations," and/or "Risk Factors," and "Certain Legal Aspects of the Mortgage Loan," or similar sections, and all sections relating to Borrower, Borrower Principal, Manager, their Affiliates, the Loan, the Loan Documents and the Property, and any risks or special considerations relating thereto, and that, to the best of Borrower's knowledge, such sections (and any other sections reasonably requested) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading has been requested by Lender and has not been provided by Borrower and shall be applicable based on information previously provided by Borrower or its Affiliates if Borrower does not provide such requested indemnification certificate.

(c) In connection with filings under the Exchange Act or any information provided to holders of Securities on an ongoing basis, Borrower agrees to indemnify (i) Lender and the Issuer Group for Losses to which Lender or the Issuer Group may become subject insofar as the Securities Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information a material fact required to be stated in the Provided Information in

order to make the statements in the Provided Information, in light of the circumstances under which they were made not misleading and (ii) reimburse Lender or the Issuer Group for any legal or other expenses reasonably incurred by Lender or the Issuer Group in connection with defending or investigating the Securities Liabilities.

(d) Promptly after receipt by an indemnified party under this Section 13.5 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 13.5, notify the indemnifying party in writing of the commencement thereof, but the omission to so notify the indemnifying party will not relieve the indemnifying party from any liability which the indemnifying party may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the indemnifying party. In the event that any action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party. After notice from the indemnifying party to such indemnified party under this Section 13.5 the indemnifying party shall be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there are any legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. The indemnifying party shall not be liable for the expenses of more than one such separate counsel unless an indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to another indemnified party.

(e) In order to provide for just and equitable contribution in circumstances in which the indemnity agreements provided for in Section 13.5(c) or Section 13.5(d) is or are for any reason held to be unenforceable by an indemnified party in respect of any losses, claims, damages or liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 13.5(c) or Section 13.5(d), the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages or liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified party's and Borrower's relative knowledge and access to information concerning the matter with respect to which claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. Lender and Borrower hereby agree that it would not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

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(f) The liabilities and obligations of Borrower, and Lender under this Section 13.5 shall survive the satisfaction of this Agreement and the satisfaction and discharge of the Debt.

SECTION 13.6. INTENTIONALLY DELETED

ARTICLE 14  
INDEMNIFICATIONS

SECTION 14.1. GENERAL INDEMNIFICATION

Borrower shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out

of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Applicable Legal Requirements; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (f) the holding or investing of the Reserve Accounts or the performance of the Required Work, or Additional Replacements, or (g) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan (collectively, the "INDEMNIFIED LIABILITIES"); provided, however, that Borrower shall not have any obligation to Lender hereunder to the extent that such Indemnified Liabilities arise from the gross negligence, illegal acts, fraud or willful misconduct of Lender. To the extent that the undertaking to indemnify, defend and hold harmless set forth in the preceding sentence may be unenforceable because it violates any law or public policy, Borrower shall pay the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Lender.

#### SECTION 14.2. MORTGAGE AND INTANGIBLE TAX INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of the Mortgage, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

#### SECTION 14.3. ERISA INDEMNIFICATION

Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of 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

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that may be required, in Lender's sole discretion) that Lender may incur, directly or indirectly, as a result of a default under Section 4.8 or Section 5.18 of this Agreement.

#### SECTION 14.4. SURVIVAL

The obligations and liabilities of Borrower under this Article 14 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Mortgage.

### ARTICLE 15 EXCULPATION

#### SECTION 15.1. EXCULPATION

(a) Except as otherwise provided herein or in the other Loan Documents, Lender shall not enforce the liability and obligation of Borrower or Borrower Principal, as applicable, to perform and observe the obligations contained herein or in the other Loan Documents by any action or proceeding

wherein a money judgment shall be sought against Borrower or Borrower Principal, except that Lender may, except with respect to Section 5.23 hereof, bring a foreclosure action, action for specific performance or other appropriate action or proceeding to enable Lender to enforce and realize upon this Agreement, the Note, the Mortgage and the other Loan Documents, and the interest in the Property, the Rents and any other collateral given to Lender created by this Agreement, the Note, the Mortgage and the other Loan Documents; provided, however, that any judgment in any such action or proceeding shall be enforceable against Borrower only to the extent of Borrower's interest in the Property, in the Rents and in any other collateral given to Lender. Lender, by accepting this Agreement, the Note, the Mortgage and the other Loan Documents, agrees that it shall not, except as otherwise provided in this Section 15.1, sue for, seek or demand any deficiency judgment against Borrower or Borrower Principal in any such action or proceeding, under or by reason of or under or in connection with this Agreement, the Note, the Mortgage or the other Loan Documents. The provisions of this Section 15.1 shall not, however, (i) constitute a waiver, release or impairment of any obligation evidenced or secured by this Agreement, the Note, the Mortgage or the other Loan Documents; (ii) impair the right of Lender to name Borrower or Borrower Principal as a party defendant in any action or suit for judicial foreclosure and sale under this Agreement and the Mortgage; (iii) affect the validity or enforceability of any indemnity (including, without limitation, those contained in Section 12.6, with respect to Borrower or Borrower Principal, Section 13.5, with respect to Borrower, and Article 14 of this Agreement, with respect to Borrower), guaranty, master lease or similar instrument made in connection with this Agreement, the Note, the Mortgage and the other Loan Documents; (iv) impair the right of Lender to obtain the appointment of a receiver; (v) impair the enforcement of the assignment of leases provisions contained in the Mortgage; or (vi) impair the right of Lender to obtain a deficiency judgment or other judgment on the Note against Borrower or Borrower Principal if necessary to obtain any Insurance Proceeds or Awards to which Lender would otherwise be entitled under this Agreement; provided however, Lender shall only enforce such judgment to the extent of the Insurance Proceeds and/or Awards.

(b) Notwithstanding the provisions of this Section 15.1 to the contrary:

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(1) Borrower and Borrower Principal shall be personally liable to Lender on a joint and several basis for Losses due to:

(i) fraud or intentional misrepresentation by Borrower, Borrower Principal or any other Affiliate of Borrower or Borrower Principal in connection with the execution and the delivery of this Agreement, the Note, the Mortgage, any of the other Loan Documents, or any certificate, report, financial statement or other instrument or document furnished to Lender at the time of the closing of the Loan or during the term of the Loan;

(ii) Borrower's misapplication or misappropriation of Rents received by Borrower after the occurrence and during the continuance of an Event of Default;

(iii) Borrower's misapplication or misappropriation of tenant security deposits or Rents collected in advance and which have not been applied to the operation of the Property;

(iv) the misapplication or the misappropriation of Insurance Proceeds or Awards;

(v) Borrower's failure to pay Taxes, Other Charges (except to the extent that sums sufficient to pay such amounts have been deposited in escrow with Lender pursuant to the terms hereof and there exists no impediment to Lender's utilization thereof) beyond any applicable notice and cure periods specified therein;

(vi) any act of actual intentional physical waste or arson by Borrower, any principal, Affiliate, member or general partner thereof or by Borrower Principal, any principal, Affiliate, member or general partner thereof;

(vii) the portion of any Rent paid by any Tenant more than thirty (30) days in advance that would have been payable by such Tenant from and after the occurrence of an Event of Default; or

(viii) the failure by Borrower Principal to comply with the covenant set forth in Section 5.23 of this Agreement; and

(2) Borrower Principal shall be personally liable to Lender for Losses due to the Property, or any part thereof, becoming an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding. Additionally, Borrower Principal shall be personally liable to Lender for Losses in the event of a breach by Borrower or SPE Component Entity of any of the covenants set forth in Article 6, except to the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d).

(c) Notwithstanding the foregoing, the agreement of Lender not to pursue recourse liability as set forth in subsection (a) above SHALL BECOME NULL AND VOID and shall be

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of no further force and effect and the Debt shall become fully recourse (1) to Borrower and Borrower Principal, jointly and severally, in the event of a breach of any of the covenants set forth in Article 7 hereof and (2) to Borrower in the event (i) of a breach by Borrower or SPE Component Entity of any of the covenants set forth in Article 6, except to the extent that such breach was inadvertent, immaterial and is promptly cured in accordance with Section 11.1(d) hereof or (ii) the Property or any part thereof shall become an asset in (A) a voluntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal, or (B) an involuntary bankruptcy or insolvency proceeding of Borrower or Borrower Principal in connection with which Borrower, Borrower Principal, SPE Component Entity or any Affiliate of any of the foregoing has or have solicited, procured, or supported in any way with the creditors commencing or filing such proceeding.

(d) Nothing herein shall be deemed to be a waiver of any right which Lender may have under Section 506(a), 506(b), 1111(b) or any other provision of the U.S. Bankruptcy Code to file a claim for the full amount of the indebtedness secured by the Mortgage or to require that all collateral shall continue to secure all of the indebtedness owing to Lender in accordance with this Agreement, the Note, the Mortgage or the other Loan Documents.

#### ARTICLE 16 NOTICES

##### SECTION 16.1. NOTICES

All notices, consents, approvals and requests required or permitted hereunder or under any other Loan Document shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested, (b) expedited prepaid overnight delivery service, either commercial or United States Postal Service, with proof of attempted delivery, or by (c) telecopier (with answer back acknowledged provided an additional notice is given pursuant to subsection (b) above), addressed as follows (or at such other address and Person as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for

in this Section):

If to Lender: To the Lender notice addresses set forth on Schedule 1, attached hereto.

If to Borrower: c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Attention: President  
Facsimile No.: (312) 279-1710

With a copy to: c/o Manufactured Home Communities, Inc.  
Two North Riverside Plaza, Suite 800  
Chicago, Illinois 60606  
Attention: General Counsel  
Facsimile No.: (312) 279-1715

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and to: Katten Muchin Zavis Rosenman  
525 West Monroe Street, Suite 1600  
Chicago, Illinois 60661  
Attention: Daniel J. Perlman, Esq.  
Facsimile No.: (312) 902-1061

A notice shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day; or in the case of expedited prepaid delivery and telecopy, upon the first attempted delivery on a Business Day.

#### ARTICLE 17 FURTHER ASSURANCES

##### SECTION 17.1. REPLACEMENT DOCUMENTS

Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

##### SECTION 17.2. RECORDING OF MORTGAGE, ETC.

Borrower forthwith upon the execution and delivery of the Mortgage and thereafter, from time to time, will cause the Mortgage and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Mortgage, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Mortgage, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

##### SECTION 17.3. FURTHER ACTS, ETC.

Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, deeds of trust, mortgages, assignments, security agreements, control agreements, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better

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assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Agreement or for filing, registering or recording the Mortgage, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements and financing statement amendments to evidence more effectively, perfect and maintain the priority of the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation, such rights and remedies available to Lender pursuant to this Section 17.3.

#### SECTION 17.4. CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP LAWS

(a) If any law is enacted or adopted or amended after the date of this Agreement which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable without any prepayment premium.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of the Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable without any prepayment premium.

If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Mortgage, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

#### SECTION 17.5. EXPENSES

Borrower covenants and agrees to pay or, if Borrower fails to pay, to reimburse, Lender upon receipt of written notice from Lender for all reasonable costs and expenses (including reasonable, actual attorneys' fees and disbursements reasonably incurred by Lender in accordance with this Agreement in connection with (a) the preparation, negotiation, execution and delivery of this Agreement and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby and all the costs of furnishing all opinions by

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counsel for Borrower (including without limitation any opinions requested by Lender as to any legal matters arising under this Agreement or the other Loan Documents with respect to the Property); (b) Borrower's ongoing performance of and compliance with Borrower's respective agreements and covenants contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date, including, without limitation, confirming compliance with environmental and insurance requirements; (c) following a request by Borrower, Lender's ongoing performance and compliance with all agreements and conditions contained in this Agreement and the other Loan Documents on its part to be performed or complied with after the Closing Date; (d) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Agreement and the other Loan Documents and any other documents or matters requested by Lender; (e) securing Borrower's compliance with any requests made pursuant to the provisions of this Agreement; (f) the filing and recording fees and expenses, title insurance and reasonable fees and expenses of counsel for providing to Lender all required legal opinions, and other similar expenses incurred in creating and perfecting the Lien in favor of Lender pursuant to this Agreement and the other Loan Documents; (g) enforcing or preserving any rights, in response to third party claims or the prosecuting or defending of any action or proceeding or other litigation, in each case against, under or affecting Borrower, this Agreement, the other Loan Documents, the Property, or any other security given for the Loan; and (h) enforcing any obligations of or collecting any payments due from Borrower under this Agreement, the other Loan Documents or with respect to the Property or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or of any insolvency or bankruptcy proceedings; provided, however, that Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of Lender.

ARTICLE 18  
WAIVERS

SECTION 18.1. REMEDIES CUMULATIVE; WAIVERS

The rights, powers and remedies of Lender under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which Lender may have against Borrower or Borrower Principal pursuant to this Agreement or the other Loan Documents, or existing at law or in equity or otherwise. Lender's rights, powers and remedies may be pursued singularly, concurrently or otherwise, at such time and in such order as Lender may determine in Lender's sole discretion. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

SECTION 18.2. MODIFICATION, WAIVER IN WRITING

No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, or of the Note, or of any other Loan Document, nor consent to any

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departure by Borrower therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on Borrower, shall entitle Borrower to any other or future notice or demand in the same, similar or other circumstances.

SECTION 18.3. DELAY NOT A WAIVER

Neither any failure nor any delay on the part of Lender in insisting upon strict performance of any term, condition, covenant or agreement, or exercising any right, power, remedy or privilege hereunder, or under the Note or under any other Loan Document, or any other instrument given as security therefor, shall operate as or constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other future exercise, or the exercise of any other right, power, remedy or privilege. In particular, and not by way of limitation, by accepting payment after the due date of any amount payable under this Agreement, the Note or any other Loan Document, Lender shall not be deemed to have waived any right either to require prompt payment when due of all other amounts due under this Agreement, the Note or the other Loan Documents, or to declare a default for failure to effect prompt payment of any such other amount.

#### SECTION 18.4. TRIAL BY JURY

BORROWER, BORROWER PRINCIPAL AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER, BORROWER PRINCIPAL AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER, BORROWER PRINCIPAL AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER, BORROWER PRINCIPAL AND LENDER.

#### SECTION 18.5. WAIVER OF NOTICE

Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Agreement or the other Loan Documents specifically and expressly provide for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Agreement or the other Loan

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Documents do not specifically and expressly provide for the giving of notice by Lender to Borrower.

#### SECTION 18.6. REMEDIES OF BORROWER

In the event that a claim or adjudication is made that Lender or its agents have acted unreasonably or unreasonably delayed acting in any case where by law or under this Agreement or the other Loan Documents, Lender or such agent, as the case may be, has an obligation to act reasonably or promptly, Borrower agrees that neither Lender nor its agents shall be liable for any monetary damages, and Borrower's sole remedies shall be limited to commencing an action seeking injunctive relief or declaratory judgment. The parties hereto agree that any action or proceeding to determine whether Lender has acted reasonably shall be determined by an action seeking declaratory judgment. Lender agrees that, in such event, it shall cooperate in expediting any action seeking injunctive relief or declaratory judgment.

#### SECTION 18.7. WAIVER OF MARSHALLING OF ASSETS

To the fullest extent permitted by law, Borrower, for itself and its successors and assigns, waives all rights to a marshalling of the assets of Borrower, Borrower's partners and others with interests in Borrower, and of the Property, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Lender under the Loan Documents to a sale of the Property for the collection of the Debt without any

prior or different resort for collection or of the right of Lender to the payment of the Debt out of the net proceeds of the Property in preference to every other claimant whatsoever.

SECTION 18.8. WAIVER OF STATUTE OF LIMITATIONS

Borrower hereby expressly waives and releases, to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

SECTION 18.9. WAIVER OF COUNTERCLAIM

Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Lender or its agents.

ARTICLE 19  
GOVERNING LAW

SECTION 19.1. CHOICE OF LAW

This Agreement shall be deemed to be a contract entered into pursuant to the laws of the State of New York and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of New York, provided however, (a) that with respect to the creation, perfection, priority and enforcement of any Lien created by the Loan Documents, and the determination of deficiency judgments, the laws of the state where the Property is located

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shall apply, and (b) with respect to the security interest in each of the Reserve Accounts and the Lockbox Account, the laws of the state where each such account is located shall apply.

SECTION 19.2. SEVERABILITY

Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

SECTION 19.3. PREFERENCES

Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by Borrower to any portion of the obligations of Borrower hereunder. To the extent Borrower makes a payment or payments to Lender, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Creditors Rights Laws, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the obligations hereunder or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by Lender.

ARTICLE 20  
MISCELLANEOUS

SECTION 20.1. SURVIVAL

This Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by Lender of the Loan and the execution and delivery to Lender of the Note, and shall continue in full force and effect so long as all

or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth herein or in the other Loan Documents. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Agreement, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and assigns of Lender.

#### SECTION 20.2. LENDER'S DISCRETION

Whenever pursuant to this Agreement, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole discretion of Lender and shall be final and conclusive.

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#### SECTION 20.3. HEADINGS

The Article and/or Section headings and the Table of Contents in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

#### SECTION 20.4. COST OF ENFORCEMENT

In the event (a) that the Mortgage is foreclosed in whole or in part, (b) of the bankruptcy, insolvency, rehabilitation or other similar proceeding in respect of Borrower or any of its constituent Persons or an assignment by Borrower or any of its constituent Persons for the benefit of its creditors, or (c) Lender exercises any of its other remedies under this Agreement or any of the other Loan Documents, Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including attorneys' fees and costs, incurred by Lender or Borrower in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, together with all required service or use taxes.

#### SECTION 20.5. SCHEDULES INCORPORATED

The Schedules annexed hereto are hereby incorporated herein as a part of this Agreement with the same effect as if set forth in the body hereof.

#### SECTION 20.6. OFFSETS, COUNTERCLAIMS AND DEFENSES

Any assignee of Lender's interest in and to this Agreement, the Note and the other Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to such documents which Borrower may otherwise have against any assignor of such documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Borrower in any action or proceeding brought by any such assignee upon such documents and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Borrower.

#### SECTION 20.7. NO JOINT VENTURE OR PARTNERSHIP; NO THIRD PARTY BENEFICIARIES

(a) Borrower and Lender intend that the relationships created hereunder and under the other Loan Documents be solely that of borrower and lender. Nothing herein or therein is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender nor to grant Lender any interest in the Property other than that of mortgagee, beneficiary or lender.

(b) This Agreement and the other Loan Documents are solely for the benefit of Lender and Borrower and nothing contained in this Agreement or the other Loan Documents shall be deemed to confer upon anyone other than Lender and

Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof

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and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so.

(c) The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

(d) Notwithstanding anything to the contrary contained herein, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(e) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Agreement, the Mortgage, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

(f) Borrower recognizes and acknowledges that in accepting this Agreement, the Note, the Mortgage and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the representations and warranties set forth in Article 4 of this Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Agreement, the Note, the Mortgage and the other Loan Documents in the absence of the warranties and representations as set forth in Article 4 of this Agreement.

#### SECTION 20.8. PUBLICITY

All news releases, publicity or advertising by Borrower or its Affiliates through any media intended to reach the general public which refers to the Loan, Lender, Banc of America Securities LLC, or any of their Affiliates shall be subject to the prior written approval of Lender, not to be unreasonably withheld, provided however, that Lender's consent shall not be required in connection with any such news releases, publicity or advertising by Borrower or its Affiliates to the extent Borrower or its Affiliates are required to make such news releases pursuant to applicable Legal Requirements. Lender shall be permitted to make any news, releases, publicity or advertising by Lender or its Affiliates through any media intended to reach the general public which refers to the Loan, the Property, Borrower, Borrower Principal and their respective Affiliates without the approval of Borrower or any such Persons. Borrower also agrees that Lender may share any information pertaining to the Loan with Bank of America Corporation, including its bank subsidiaries, Banc of America Securities LLC and any other Affiliates of the

foregoing, in connection with the sale or transfer of the Loan or any Participations and/or Securities created. In the event of a conflict between any of the provisions of this Section 20.8 and paragraph 5 of the Advisory Agreement, the applicable provisions of the Advisory Agreement shall control.

SECTION 20.9. CONFLICT; CONSTRUCTION OF DOCUMENTS; RELIANCE

In the event of any conflict between the provisions of this Agreement and any of the other Loan Documents, the provisions of this Agreement shall control. The parties hereto acknowledge that they were represented by competent counsel in connection with the negotiation, drafting and execution of the Loan Documents and that such Loan Documents shall not be subject to the principle of construing their meaning against the party which drafted same. Borrower acknowledges that, with respect to the Loan, Borrower shall rely solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Lender or any parent, subsidiary or Affiliate of Lender. Lender shall not be subject to any limitation whatsoever in the exercise of any rights or remedies available to it under any of the Loan Documents or any other agreements or instruments which govern the Loan by virtue of the ownership by it or any parent, subsidiary or Affiliate of Lender of any equity interest any of them may acquire in Borrower, and Borrower hereby irrevocably waives the right to raise any defense or take any action on the basis of the foregoing with respect to Lender's exercise of any such rights or remedies. Borrower acknowledges that Lender engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Borrower or its Affiliates.

SECTION 20.10. ENTIRE AGREEMENT

This Agreement and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written between Borrower and Lender are superseded by the terms of this Agreement and the other Loan Documents.

SECTION 20.11. TAX DISCLOSURE

Notwithstanding anything herein to the contrary, except as reasonably necessary to comply with applicable securities laws, each party (and each employee, representative or other agent of each party) hereto may disclose to any and all persons, without limitation of any kind, any information with respect to the United States federal income "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of the transactions contemplated hereby and all materials of any kind (including opinions or other tax analyses) that are provided to such parties (or their representatives) relating to such tax treatment and tax structure; provided that with respect to any document or similar item that in either case contains information concerning the tax treatment or tax structure of the transaction as well as other information, this sentence shall only apply to such portions of the document or similar item that relate to the United States federal income tax treatment or tax structure of the transactions contemplated hereby.

SECTION 20.12. EXECUTION BY BORROWER PRINCIPAL

Borrower Principal is executing this Agreement solely for the purpose of (a) making the representations and warranties applicable to Borrower Principal contained in Sections 4.1, 4.3, 4.4, 4.5, 4.7, 4.8, 4.10, 4.14 (with respect to financial information of Borrower Principal), 4.31, 4.39, and 4.40 of this Agreement, and (b) agreeing to the terms, covenants and conditions applicable to Borrower Principal contained in Sections 5.23, 9.8, 12.6, 13.4, 15.1(b), 15.1(c), 18.4, and 18.10.

ARTICLE 21      OUT PARCEL RELEASE

Section 21.1. Out Parcel Release. Provided no Event of Default exists and is continuing, Borrower shall be entitled to a release from the lien of the Mortgage of a portion of the Property (the "OUT PARCEL") more particularly described as on Exhibit C hereof upon the following terms and conditions:

(a) Borrower shall deliver evidence satisfactory to Lender that (i) the Property remaining encumbered by the lien of the Mortgage shall comply with all Legal Requirements (including, without limitation, all zoning and building codes), (ii) the Property remaining encumbered by the lien of the Security Instrument shall constitute a separate lot for tax and assessment purposes by no later than the earliest date permitted under applicable Legal Requirements, (iii) the Out Parcel, at the time of release, remains an unimproved parcel of land (exclusive of parking areas contained thereon), (iv) such release shall not adversely affect ingress or egress to or from the Property, (v) the documents with respect to such release shall not impose any obligations or otherwise burden the Property in any way, (vi) Borrower has obtained or caused to be obtained all necessary approvals, consents or permits with respect to such release and (vii) the Out Parcel has been transferred to an entity other than Borrower or any SPE Component Entity.

(b) Borrower shall (i) deliver to Lender (A) a revised, updated Title Insurance Policy (or an endorsement to the existing Title Insurance Policy) acceptable to Lender in all respects reflecting the release of the Out Parcel and containing such endorsements as Lender shall reasonably require (including, without limitation, a "date-down" or similar endorsement), (B) if the Loan is part of a Securitization, Borrower shall deliver to Lender an opinion of counsel acceptable to Lender and the Rating Agencies (issued by counsel acceptable to Lender and the Rating Agencies) that the release of the Out Parcel would not constitute a "significant modification" of the Loan under Section 1001 of the Internal Revenue Code or otherwise cause a tax to be imposed on a "prohibited transaction" by any REMIC Trust, and (C) such amendments or modifications to the Loan Documents as Lender may reasonably require to reflect the release of the Out Parcel (including, without limitation, an amendment to the Mortgage substituting a revised legal description reflecting the release of the Out Parcel), and (ii) pay all of Lender's reasonable costs and expenses in connection with a release of the Out Parcel, including, without limitation, reasonable counsel fees and disbursements and all recording fees and title charges.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

BORROWER:

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BORROWER PRINCIPAL:

Acknowledged and agreed to with respect to  
its obligations set forth in Section 20.12  
hereof:

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LENDER:

[BANK OF AMERICA, N.A.,] [MORGAN STANLEY  
MORTGAGE CAPITAL INC.] [WELLS FARGO BANK,  
NATIONAL ASSOCIATION]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[[LOCKBOX BANK:]]

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ACKNOWLEDGED AND AGREED TO WITH RESPECT TO  
ITS OBLIGATIONS SET FORTH IN ARTICLE 10  
HEREOF:

\_\_\_\_\_, A  
\_\_\_\_\_

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_]

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EXHIBIT A

RENT DIRECTION LETTER

EXHIBIT B

BORROWER EQUITY OWNERSHIP STRUCTURE

EXHIBIT C [RELEASE PARCEL PROPERTIES ONLY]

(OUT PARCEL)

(see attached)

SCHEDULE 1

GOLF VISTA ESTATES

ELIGIBLE INSTITUTION: Bank of America, N.A.

LOCKBOX BANK: Bank of America, N.A.

OPERATING LEASE:

PRINCIPAL AMOUNT OF NOTE: \$14,592,788

NOTE RATE: 5.715%

MATURITY DATE (SECTION 2.2(b)): 11/01/2010

MONTHLY PAYMENT AMOUNT (SECTION 2.2(b)): \$84,835.37



PAYMENT ADDRESS (SECTION 2.2(d)):

SUBSTITUTION/DEFEASANCE LOCKOUT PERIOD (SECTION 2.4(B) AND SECTION 2.5): the date that is forty-two (42) months after the first Scheduled Payment Date

BORROWER ORGANIZATIONAL IDENTIFICATION NUMBER (SECTION 4.2):

LENDER NOTICE ADDRESS (SECTION 16.1):

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SCHEDULE 2

REQUIRED REPAIRS

(see attached)

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SCHEDULE 3

BORROWER ACCOUNT

SCHEDULE 4

(ADVISORY AGREEMENT)

The Manufactured Home Communities, Inc. (the "Company") agrees that all advice given by Banc of America Securities LLC ("BAS") in connection with its engagement hereunder is for the benefit and use of the Company in considering its strategic situation and that no such advice shall be used for any other purpose or be disclosed, reproduced, disseminated, quoted or referred to at any time, in any manner or for any purpose, nor shall any public references to BAS be made by or on behalf of the Company, in each case without BAS' prior written consent, which consent shall not be unreasonably withheld. BAS agrees to maintain the confidentiality of the confidential or proprietary information ("Confidential Information") provided by the Company to BAS in connection with this engagement and to utilize or disclose the Confidential Information only in connection with the activities and transactions contemplated by this letter agreement (the "Permitted Use"). BAS shall only disclose the Confidential Information (i) to its employees, officers, agents, advisors and other representatives (collectively, its "Representatives") who need to know such Confidential Information in connection with the Permitted Use or (ii) as required by law, regulation or legal, governmental or regulatory process but only after, in the case of this clause (iii), notice to the Company, unless such notice is prohibited by law, regulation or legal, governmental or regulatory process. Notwithstanding the foregoing, the following will not constitute Confidential Information: (i) information which was already known to BAS prior to its disclosure by the Company; (ii) information which is obtained by the BAS from a third party who is not known by the BAS to be prohibited from disclosing the information to the BAS by a contractual, legal or fiduciary obligation to the Company; (iii) information which is or becomes publicly available (other than as a result of disclosure by the BAS in violation of this paragraph); and (iv) information which is independently developed, discovered or arrived at by the BAS or any of its Representatives without use of Confidential Information. BAS shall be liable for any breach of the provisions of this paragraph by its Representatives. The obligations related to Confidential Information contained in this paragraph shall terminate two years from the date of this letter agreement and will survive any earlier termination of this letter agreement. Notwithstanding anything to the contrary contained herein, BAS and the Company shall be permitted to disclose the tax treatment and tax structure of any strategic alternative (including any materials, opinions or analyses relating to such tax treatment or tax structure, but without disclosure of identifying information or, except to the extent relating to such tax structure or tax

treatment, any nonpublic commercial or financial information) on and after the earliest to occur of the date of (i) public announcement of discussions relating to such strategic alternative, (ii) public announcement of such strategic alternative or (iii) execution of a definitive agreement (with or without conditions) to enter into such strategic alternative; provided, however, that if such strategic alternative is not consummated for any reason, the provisions of this sentence shall cease to apply with respect to such strategic alternative.

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SCHEDULE 4.5

(LITIGATION)

NONE

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## Schedule Identifying Substantially Identical Agreements to Exhibit No. 10.48.

Various subsidiaries of the Company each entered into a loan agreement which is substantially identical to the loan agreement filed under Exhibit 10.48. The following table lists the borrower, lender and loan amount which differs from that in exhibit 10.48 for each of the five loan agreements.

Borrower -----	Lender -----	Loan Amount -----
MHC Boulder Cascade, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$ 8,880,000
MHC Carefree Manor, L.L.C.	Wells Fargo Bank, National Association	\$ 3,397,513
MHC Countryside at Vero Beach, L.L.C.	Bank of America, N.A.	\$ 17,346,655
MHC Palm Shadows, L.L.C.	Morgan Stanley Mortgage Capital, Inc.	\$ 8,480,000
MHC The Meadows at Countrywood, L.L.C.	Bank of America, N.A.	\$ 18,292,718

## EXHIBIT 12

MANUFACTURED HOME COMMUNITIES, INC.  
 COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES  
 (Dollar amounts in thousands)

	For the Years Ended December 31,				
	2003	2002	2001	2000	1999
Income from continuing operations before allocation to minority interests	33,006	\$ 40,806	\$ 49,006	\$ 49,268	\$34,517
Fixed Charges	69,654	61,981	62,557	64,532	56,619
Earnings	102,660	\$102,787	\$111,563	\$113,800	\$91,136
Interest incurred	53,371	\$ 49,718	\$ 50,197	\$ 52,317	\$53,134
Amortization of deferred financing costs	5,031	1,011	1,108	963	641
Perpetual Preferred OP Unit Distributions	11,252	11,252	11,252	11,252	2,844
Fixed Charges	69,654	\$ 61,981	\$ 62,557	\$ 64,532	\$56,619
Earnings/Fixed Charges	1.47	1.66	1.78	1.76	1.61

MANUFACTURED HOME COMMUNITIES, INC.  
SUBSIDIARIES OF THE REGISTRANT

	State of Incorporation or Organization -----
MHC Operating Limited Partnership	Illinois
MHC Financing Limited Partnership	Illinois
MHC Financing Limited Partnership Two	Delaware
Blue Ribbon Communities Limited Partnership	Delaware
MHC Lending Limited Partnership	Illinois
MHC-DeAnza Financing Limited Partnership	Illinois
MHC Bay Indies, L.L.C.	Delaware
MHC Stagecoach, L.L.C.	Delaware

MANUFACTURED HOME COMMUNITIES, INC.  
CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in the Registration Statements (Form S-8 No. 333-68473, No. 333-28469, No. 333-25295, and No. 33-76486, and Form S-3 No. 333-66550, No. 333-90813, No. 333-65515, No. 333-25297, No. 333-1710, No. 33-82902 and No. 33-97288) of Manufactured Home Communities, Inc., and in the related Prospectuses, of our report dated January 27, 2004, except for Note 18 as to which the date is February 19, 2004 and Note 17 as to which the date is February 24, 2004 with respect to the consolidated financial statements and schedules of Manufactured Home Communities, Inc., included in this Annual Report (Form 10-K) for the year ended December 31, 2003.

ERNST & YOUNG LLP

Chicago, Illinois  
March 9, 2004

POWER OF ATTORNEY

Exhibit 24.1

STATE OF Illinois )  
 ) SS  
COUNTY OF Cook )

KNOW ALL MEN BY THESE PRESENTS that Joseph B. McAdams, having an address at Hot Springs, Arkansas, has made, constituted and appointed and BY THESE PRESENTS, does make, constitute and appoint Thomas P. Heneghan and Michael B. Berman, or either of them, having an address at Two North Riverside Plaza, Chicago, Illinois 60606, his true and lawful Attorney-in-Fact for him and in his name, place and stead to sign and execute in any and all capacities this Annual Report on Form 10-K and any or all amendments to this Annual Report on Form 10-K, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, giving and granting unto each of such, Attorney-in-Fact, full power and authority to do and perform each and every act and thing, requisite and necessary to be done in and about the premises, as fully, to all intents and purposes as he might or could do if personally present at the doing thereof, with full power of substitution and revocation, hereby ratifying and confirming all that each of such Attorney-in-Fact or his substitutes shall lawfully do or cause to be done by virtue hereof.

This power of Attorney shall remain in full force and effect until terminated by the undersigned through the instrumentality of a signed writing.

IN WITNESS WHEREOF, Joseph B. McAdams, has hereunto, set his hand this 2nd day of March, 2004.

/s/ Joseph B. McAdams  
-----  
Joseph B. McAdams

I, Susan L. Jeffrey, a Notary Public in and for said County in the State aforesaid, do hereby certify that Joseph B. McAdams, personally know to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of March, 2004.

/s/ Susan L. Jeffrey  
-----  
(Notary Public)

My Commission Expires:

August 1, 2005

POWER OF ATTORNEY

Exhibit 24.2

STATE OF Illinois )  
 ) SS  
COUNTY OF Cook )

KNOW ALL MEN BY THESE PRESENTS that Howard Walker, having an address at Chicago, Illinois, has made, constituted and appointed and BY THESE PRESENTS, does make, constitute and appoint , or either of them, having an address at Two North Riverside Plaza, Chicago, Illinois 60606, his true and lawful Attorney-in-Fact for him and in his name, place and stead to sign and execute in any and all capacities this Annual Report on Form 10-K and any or all amendments to this Annual Report on Form 10-K, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, giving and granting unto each of such, Attorney-in-Fact, full power and authority to do and perform each and every act and thing, requisite and necessary to be done in and about the premises, as fully, to all intents and purposes as he might or could do if personally present at the doing thereof, with full power of substitution and revocation, hereby ratifying and confirming all that each of such Attorney-in-Fact or his substitutes shall lawfully do or cause to be done by virtue hereof.

This power of Attorney shall remain in full force and effect until terminated by the undersigned through the instrumentality of a signed writing.

IN WITNESS WHEREOF, Howard Walker, has hereunto, set his hand this 2nd day of March, 2004.

/s/ Howard Walker  
-----  
Howard Walker

I, Susan L. Jeffrey, a Notary Public in and for said County in the State aforesaid, do hereby certify that Howard Walker, personally know to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of March, 2004.

/s/ Susan L. Jeffrey  
-----  
(Notary Public)

My Commission Expires:  
August 1, 2005



POWER OF ATTORNEY

Exhibit 24.3

STATE OF NEW YORK )  
 ) SS  
COUNTY OF NEW YORK )

KNOW ALL MEN BY THESE PRESENTS that Thomas E. Dobrowski, having an address at 767 5th Ave., New York, New York, has made, constituted and appointed and BY THESE PRESENTS, does make, constitute and appoint Thomas P. Heneghan and Michael B. Berman, or either of them, having an address at Two North Riverside Plaza, Chicago, Illinois 60606, his true and lawful Attorney-in-Fact for him and in his name, place and stead to sign and execute in any and all capacities this Annual Report on Form 10-K and any or all amendments to this Annual Report on Form 10-K, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, giving and granting unto each of such, Attorney-in-Fact, full power and authority to do and perform each and every act and thing, requisite and necessary to be done in and about the premises, as fully, to all intents and purposes as he might or could do if personally present at the doing thereof, with full power of substitution and revocation, hereby ratifying and confirming all that each of such Attorney-in-Fact or his substitutes shall lawfully do or cause to be done by virtue hereof.

This power of Attorney shall remain in full force and effect until terminated by the undersigned through the instrumentality of a signed writing.

IN WITNESS WHEREOF, Thomas E. Dobrowski, has hereunto, set his hand this 1st day of March, 2004.

/s/ Thomas E. Dobrowski  
-----  
Thomas E. Dobrowski

I, Cynthia L. Morra, a Notary Public in and for said County in the State aforesaid, do hereby certify that Thomas E. Dobrowski, personally know to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st day of March, 2004.

Cynthia L. Morra  
-----  
(Notary Public)

My Commission Expires:

March 30, 2007

POWER OF ATTORNEY

Exhibit 24.4

STATE OF WASHINGTON )  
 ) SS  
COUNTY OF KITSAP )

KNOW ALL MEN BY THESE PRESENTS that Gary L. Waterman, having an address at Bainbridge, Washington, has made, constituted and appointed and BY THESE PRESENTS, does make, constitute and appoint Thomas P. Heneghan and Michael B. Berman, or either of them, having an address at Two North Riverside Plaza, Chicago, Illinois 60606, his true and lawful Attorney-in-Fact for him and in his name, place and stead to sign and execute in any and all capacities this Annual Report on Form 10-K and any or all amendments to this Annual Report on Form 10-K, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, giving and granting unto each of such, Attorney-in-Fact, full power and authority to do and perform each and every act and thing, requisite and necessary to be done in and about the premises, as fully, to all intents and purposes as he might or could do if personally present at the doing thereof, with full power of substitution and revocation, hereby ratifying and confirming all that each of such Attorney-in-Fact or his substitutes shall lawfully do or cause to be done by virtue hereof.

This power of Attorney shall remain in full force and effect until terminated by the undersigned through the instrumentality of a signed writing.

IN WITNESS WHEREOF, Gary L. Waterman, has hereunto, set his hand this 2nd day of March, 2004.

Gary L. Waterman  
-----  
Gary L. Waterman

I, Judy S. Cooley, a Notary Public in and for said County in the State aforesaid, do hereby certify that Gary L. Waterman, personally know to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of March, 2004.

Judy S Cooley  
-----  
(Notary Public)

My Commission Expires:

August 29, 2006

POWER OF ATTORNEY

Exhibit 24.5

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

KNOW ALL MEN BY THESE PRESENTS that Donald S. Chisholm, having an address at Ann Arbor, Michigan, has made, constituted and appointed and BY THESE PRESENTS, does make, constitute and appoint Thomas P. Heneghan and Michael B. Berman, or either of them, having an address at Two North Riverside Plaza, Chicago, Illinois 60606, his true and lawful Attorney-in-Fact for him and in his name, place and stead to sign and execute in any and all capacities this Annual Report on Form 10-K and any or all amendments to this Annual Report on Form 10-K, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, giving and granting unto each of such, Attorney-in-Fact, full power and authority to do and perform each and every act and thing, requisite and necessary to be done in and about the premises, as fully, to all intents and purposes as he might or could do if personally present at the doing thereof, with full power of substitution and revocation, hereby ratifying and confirming all that each of such Attorney-in-Fact or his substitutes shall lawfully do or cause to be done by virtue hereof.

This power of Attorney shall remain in full force and effect until terminated by the undersigned through the instrumentality of a signed writing.

IN WITNESS WHEREOF, Donald S. Chisholm, has hereunto, set his hand this 2nd day of March, 2004.

/s/ Donald S. Chisholm  
-----  
Donald S. Chisholm

I, Susan L. Jeffrey, a Notary Public in and for said County in the State aforesaid, do hereby certify that Donald S. Chisholm, personally know to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of March, 2004.

/s/ Susan L. Jeffrey  
-----  
(Notary Public)

My Commission Expires:

August 1, 2005

POWER OF ATTORNEY

Exhibit 24.6

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

KNOW ALL MEN BY THESE PRESENTS that David A. Helfand, having an address at Chicago, Illinois, has made, constituted and appointed and BY THESE PRESENTS, does make, constitute and appoint Thomas P. Heneghan and Michael B. Berman, or either of them, having an address at Two North Riverside Plaza, Chicago, Illinois 60606, his true and lawful Attorney-in-Fact for him and in his name, place and stead to sign and execute in any and all capacities this Annual Report on Form 10-K and any or all amendments to this Annual Report on Form 10-K, and to file the same with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, giving and granting unto each of such, Attorney-in-Fact, full power and authority to do and perform each and every act and thing, requisite and necessary to be done in and about the premises, as fully, to all intents and purposes as he might or could do if personally present at the doing thereof, with full power of substitution and revocation, hereby ratifying and confirming all that each of such Attorney-in-Fact or his substitutes shall lawfully do or cause to be done by virtue hereof.

This power of Attorney shall remain in full force and effect until terminated by the undersigned through the instrumentality of a signed writing.

IN WITNESS WHEREOF, David A. Helfand, has hereunto, set his hand this 2nd day of March, 2004.

/s/ David A. Helfand  
-----  
David A. Helfand

I, Susan L. Jeffrey, a Notary Public in and for said County in the State aforesaid, do hereby certify that David A. Helfand, personally know to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of March, 2004.

/s/ Susan L. Jeffrey  
-----  
(Notary Public)

My Commission Expires:

August 1, 2005

CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE  
SARBANES-OXLEY ACT OF 2002

I, Michael B. Berman, certify that:

1. I have reviewed this annual report on Form 10-K of Manufactured Home Communities, Inc;
2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
  - b) [Paragraph reserved pursuant to SEC Release No. 34-47986];
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this annual report based on such evaluation; and
  - d) Disclosed in this annual report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fourth quarter that has materially affected, or is reasonable likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 10, 2004

-----

By: /s/ Michael B. Berman

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Michael B. Berman  
Vice President, Treasurer and Chief  
Financial Officer

CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE  
SARBANES-OXLEY ACT OF 2002

I, Thomas P. Heneghan, certify that:

1. I have reviewed this annual report on Form 10-K of Manufactured Home Communities, Inc;
2. Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this annual report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this annual report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
  - b) [Paragraph reserved pursuant to SEC Release No. 34-47986];
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this annual report based on such evaluation; and
  - d) Disclosed in this annual report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fourth quarter that has materially affected, or is reasonable likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 10, 2004

By: /s/ Thomas P. Heneghan

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Thomas P. Heneghan  
President and Chief Executive Officer



CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the accompanying Annual Report on Form 10-K of Manufactured Home Communities, Inc. for the year ended December 31, 2003 (the "Annual Report"), I, Michael B. Berman, Vice President, Treasurer and Chief Financial Officer of Manufactured Home Communities, Inc., hereby certify pursuant to 18 U.S.C. Section 1350, as adopted by Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. the Annual Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. the information contained in the Annual Report fairly presents, in all material respects, the financial condition and results of operations of Manufactured Home Communities, Inc.

Date: March 10, 2004  
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By: /s/ Michael B. Berman  
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Michael B. Berman  
Vice President, Treasurer  
and Chief Financial Officer

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906 HAS BEEN PROVIDED TO MANUFACTURED HOME COMMUNITIES, INC. AND WILL BE RETAINED BY MANUFACTURED HOME COMMUNITIES, INC. AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.

CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the accompanying Annual Report on Form 10-K of Manufactured Home Communities, Inc. for the year ended December 31, 2003 (the "Annual Report"), I, Thomas P. Heneghan, President and Chief Executive Officer of Manufactured Home Communities, Inc., hereby certify pursuant to 18 U.S.C. Section 1350, as adopted by Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. the Annual Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. the information contained in the Annual Report fairly presents, in all material respects, the financial condition and results of operations of Manufactured Home Communities, Inc.

Date: March 10, 2004  
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By: /s/ Thomas P. Heneghan  
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Thomas P. Heneghan  
President and Chief Executive Officer

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906 HAS BEEN PROVIDED TO MANUFACTURED HOME COMMUNITIES, INC. AND WILL BE RETAINED BY MANUFACTURED HOME COMMUNITIES, INC. AND FURNISHED TO THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.