**[DRAFTING NOTE:**

**Select the appropriate bracketed language as indicated throughout the document. For the purposes of the drafting notes herein, references to “Affiliated Master Lessee” shall include Historic Tax Credit and Sharia structures regardless of the sponsor or ownership chain.]**

**MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**(NON-RECOURSE)**

**(MASTER LEASE)**

**BY AND BETWEEN**

**[BORROWER]**

**AND**

**[LENDER]**

**DATED AS OF**

**[DATE]**

**TABLE OF CONTENTS**

[Article 1 - DEFINITIONS; SUMMARY OF MORTGAGE LOAN TERMS 1](#_Toc121396671)

[Section 1.01 Defined Terms. 1](#_Toc121396672)

[Section 1.02 Schedules, Exhibits, and Attachments Incorporated. 1](#_Toc121396673)

[Article 2 - GENERAL MORTGAGE LOAN TERMS 2](#_Toc121396674)

[Section 2.01 Mortgage Loan Origination and Security. 2](#_Toc121396675)

[(a) Making of Mortgage Loan. 2](#_Toc121396676)

[(b) Security for Mortgage Loan. 2](#_Toc121396677)

[(c) Protective Advances. 2](#_Toc121396678)

[Section 2.02 Payments on Mortgage Loan. 2](#_Toc121396679)

[(a) Debt Service Payments. 2](#_Toc121396680)

[(b) Capitalization of Accrued But Unpaid Interest. 3](#_Toc121396681)

[(c) Late Charges. 3](#_Toc121396682)

[(d) Default Rate. 4](#_Toc121396683)

[(e) Address for Payments. 5](#_Toc121396684)

[(f) Application of Payments. 5](#_Toc121396685)

[Section 2.03 Lockout/Prepayment. 6](#_Toc121396686)

[(a) Prepayment; Prepayment Lockout; Prepayment Premium. 6](#_Toc121396687)

[(b) Voluntary Prepayment in Full. 6](#_Toc121396688)

[(c) Acceleration of Mortgage Loan. 7](#_Toc121396689)

[(d) Application of Collateral. 7](#_Toc121396690)

[(e) Casualty and Condemnation. 7](#_Toc121396691)

[(f) No Effect on Payment Obligations. 8](#_Toc121396692)

[(g) Loss Resulting from Prepayment. 8](#_Toc121396693)

[Article 3 - PERSONAL LIABILITY 8](#_Toc121396694)

[Section 3.01 Non-Recourse Mortgage Loan; Exceptions. 8](#_Toc121396695)

[Section 3.02 Personal Liability of Borrower (Exceptions to Non-Recourse Provision). 9](#_Toc121396696)

[(a) Personal Liability Based on Lender’s Loss. 9](#_Toc121396697)

[(b) Full Personal Liability for Mortgage Loan. 10](#_Toc121396698)

[Section 3.03 Personal Liability for Indemnity Obligations. 11](#_Toc121396699)

[Section 3.04 Lender’s Right to Forego Rights Against Mortgaged Property. 11](#_Toc121396700)

[Article 4 - BORROWER AND MASTER LESSEE STATUS 11](#_Toc121396701)

[Section 4.01 Representations and Warranties. 11](#_Toc121396702)

[(a) Due Organization and Qualification; Organizational Agreements. 12](#_Toc121396703)

[(b) Location. 13](#_Toc121396704)

[(c) Power and Authority. 13](#_Toc121396705)

[(d) Due Authorization. 13](#_Toc121396706)

[(e) Valid and Binding Obligations. 14](#_Toc121396707)

[(f) Effect of Mortgage Loan on Borrower’s Financial Condition. 14](#_Toc121396708)

[(g) Economic Sanctions, Anti-Money Laundering, and Anti-Corruption. 15](#_Toc121396709)

[(h) Single Asset Status of Borrower [INSERT FOR SHARIA AND HTC TRANSACTIONS: and Affiliated Master Lessee]. 16](#_Toc121396710)

[(i) No Bankruptcies or Judgments. 18](#_Toc121396711)

[(j) No Actions or Litigation. 18](#_Toc121396712)

[(k) Payment of Taxes, Assessments, and Other Charges. 19](#_Toc121396713)

[(l) Not a Foreign Person. 19](#_Toc121396714)

[(m) ERISA. 19](#_Toc121396715)

[(n) Default Under Other Obligations. 20](#_Toc121396716)

[(o) Prohibited Person. 20](#_Toc121396717)

[(p) No Contravention. 20](#_Toc121396718)

[(q) Lockbox Arrangement. 21](#_Toc121396719)

[Section 4.02 Covenants. 21](#_Toc121396720)

[(a) Maintenance of Existence; Organizational Documents. 21](#_Toc121396721)

[(b) Economic Sanctions, Anti-Money Laundering, and Anti-Corruption. 21](#_Toc121396722)

[(c) Payment of Taxes, Assessments, and Other Charges. 23](#_Toc121396723)

[(d) Borrower [INSERT FOR SHARIA AND HTC TRANSACTIONS: and Affiliated Master Lessee] Single Asset Status. 23](#_Toc121396724)

[(e) ERISA. 25](#_Toc121396725)

[(f) Notice of Litigation or Insolvency. 25](#_Toc121396726)

[(g) Payment of Costs, Fees, and Expenses. 25](#_Toc121396727)

[(h) Restrictions on Distributions. 26](#_Toc121396728)

[(i) Lockbox Arrangement. 26](#_Toc121396729)

[Article 5 - THE MORTGAGE LOAN 27](#_Toc121396730)

[Section 5.01 Representations and Warranties. 27](#_Toc121396731)

[(a) Receipt and Review of Loan Documents. 27](#_Toc121396732)

[(b) No Default. 27](#_Toc121396733)

[(c) No Defenses. 27](#_Toc121396734)

[(d) Loan Document Taxes. 27](#_Toc121396735)

[Section 5.02 Covenants. 27](#_Toc121396736)

[(a) Ratification of Covenants; Estoppels; Certifications. 27](#_Toc121396737)

[(b) Further Assurances. 28](#_Toc121396738)

[(c) Sale of Mortgage Loan. 29](#_Toc121396739)

[(d) Limitations on Further Acts of Borrower. 30](#_Toc121396740)

[(e) Financing Statements; Record Searches. 30](#_Toc121396741)

[(f) Loan Document Taxes. 30](#_Toc121396742)

[Article 6 - PROPERTY USE, PRESERVATION, AND MAINTENANCE 31](#_Toc121396743)

[Section 6.01 Representations and Warranties. 31](#_Toc121396744)

[(a) Compliance with Law; Permits and Licenses. 31](#_Toc121396745)

[(b) Property Characteristics. 32](#_Toc121396746)

[(c) Property Ownership. 32](#_Toc121396747)

[(d) Condition of the Mortgaged Property. 32](#_Toc121396748)

[(e) Personal Property. 32](#_Toc121396749)

[(f) Master Lease Fees. 32](#_Toc121396750)

[Section 6.02 Covenants. 33](#_Toc121396751)

[(a) Use of Property. 33](#_Toc121396752)

[(b) Property Maintenance. 33](#_Toc121396753)

[(c) Property Preservation. 35](#_Toc121396754)

[(d) Property Inspections. 36](#_Toc121396755)

[(e) Compliance with Laws. 36](#_Toc121396756)

[(f) All Representations and Covenants Deemed Borrower Responsibility. 37](#_Toc121396757)

[Section 6.03 Mortgage Loan Administration Matters Regarding the Property. 38](#_Toc121396758)

[(a) Property Management. 38](#_Toc121396759)

[(b) Subordination of Fees to Affiliated Property Managers; Affiliated Master Lessee. 38](#_Toc121396760)

[(c) Property Condition Assessment. 39](#_Toc121396761)

[Article 7 - LEASES AND RENTS 39](#_Toc121396762)

[Section 7.01 Representations and Warranties. 39](#_Toc121396763)

[(a) Prior Assignment of Rents. 39](#_Toc121396764)

[(b) Prepaid Rents. 40](#_Toc121396765)

[(c) Master Lease. 40](#_Toc121396766)

[Section 7.02 Covenants. 41](#_Toc121396767)

[(a) Leases. 41](#_Toc121396768)

[(b) Commercial Leases. 42](#_Toc121396769)

[(c) Payment of Rents. 43](#_Toc121396770)

[(d) Assignment of Rents. 43](#_Toc121396771)

[(e) Further Assignments of Leases and Rents. 44](#_Toc121396772)

[(f) Options to Purchase by Tenants. 44](#_Toc121396773)

[(g) Special Covenants Regarding Master Lease Documents. 44](#_Toc121396774)

[Section 7.03 Mortgage Loan Administration Regarding Leases and Rents. 47](#_Toc121396775)

[(a) Material Commercial Lease Requirements. 47](#_Toc121396776)

[(b) Residential Lease Form. 48](#_Toc121396777)

[(c) Master Lease Structure Consideration. 48](#_Toc121396778)

[Article 8 - BOOKS AND RECORDS; FINANCIAL REPORTING 48](#_Toc121396779)

[Section 8.01 Representations and Warranties. 48](#_Toc121396780)

[(a) Financial Information. 48](#_Toc121396781)

[(b) No Change in Facts or Circumstances. 49](#_Toc121396782)

[Section 8.02 Covenants. 49](#_Toc121396783)

[(a) Obligation to Maintain Accurate Books and Records. 49](#_Toc121396784)

[(b) Items to Furnish to Lender. 49](#_Toc121396785)

[(c) Audited Financials. 53](#_Toc121396786)

[(d) Delivery of Books and Records. 54](#_Toc121396787)

[Section 8.03 Mortgage Loan Administration Matters Regarding Books and Records and Financial Reporting. 54](#_Toc121396788)

[(a) Lender’s Right to Obtain Audited Books and Records. 54](#_Toc121396789)

[(b) Credit Reports; Credit Score. 54](#_Toc121396790)

[Article 9 - INSURANCE 55](#_Toc121396791)

[Section 9.01 Representations and Warranties. 55](#_Toc121396792)

[(a) Compliance with Insurance Requirements. 55](#_Toc121396793)

[(b) Property Condition. 55](#_Toc121396794)

[Section 9.02 Covenants. 55](#_Toc121396795)

[(a) Insurance Requirements. 55](#_Toc121396796)

[(b) Delivery of Policies, Renewals, Notices, and Proceeds. 56](#_Toc121396797)

[Section 9.03 Mortgage Loan Administration Matters Regarding Insurance 56](#_Toc121396798)

[(a) Lender’s Ongoing Insurance Requirements. 56](#_Toc121396799)

[(b) Application of Proceeds on Event of Loss. 57](#_Toc121396800)

[(c) Payment Obligations Unaffected. 59](#_Toc121396801)

[(d) Foreclosure Sale. 60](#_Toc121396802)

[(e) Appointment of Lender as Attorney-In-Fact. 60](#_Toc121396803)

[Article 10 - CONDEMNATION 60](#_Toc121396804)

[Section 10.01 Representations and Warranties. 60](#_Toc121396805)

[(a) Prior Condemnation Action. 60](#_Toc121396806)

[(b) Pending Condemnation Actions. 60](#_Toc121396807)

[Section 10.02 Covenants. 60](#_Toc121396808)

[(a) Notice of Condemnation. 60](#_Toc121396809)

[(b) Condemnation Proceeds. 61](#_Toc121396810)

[Section 10.03 Mortgage Loan Administration Matters Regarding Condemnation. 61](#_Toc121396811)

[(a) Application of Condemnation Awards. 61](#_Toc121396812)

[(b) Payment Obligations Unaffected. 61](#_Toc121396813)

[(c) Appointment of Lender as Attorney-In-Fact. 61](#_Toc121396814)

[(d) Preservation of Mortgaged Property. 61](#_Toc121396815)

[Article 11 - LIENS, TRANSFERS, AND ASSUMPTIONS 62](#_Toc121396816)

[Section 11.01 Representations and Warranties. 62](#_Toc121396817)

[(a) No Labor or Materialmen’s Claims. 62](#_Toc121396818)

[(b) No Other Interests. 62](#_Toc121396819)

[Section 11.02 Covenants. 62](#_Toc121396820)

[(a) Liens; Encumbrances. 62](#_Toc121396821)

[(b) Transfers. 63](#_Toc121396822)

[(c) Master Lease. 67](#_Toc121396823)

[(d) No Other Indebtedness. 68](#_Toc121396824)

[(e) No Mezzanine Financing or Preferred Equity. 68](#_Toc121396825)

[Section 11.03 Mortgage Loan Administration Matters Regarding Liens, Transfers, and Assumptions. 68](#_Toc121396826)

[(a) Assumption of Mortgage Loan. 68](#_Toc121396827)

[(b) Transfers to Key Principal-Owned Affiliates or Guarantor-Owned Affiliates. 70](#_Toc121396828)

[(c) Estate Planning. 71](#_Toc121396829)

[(d) Termination or Revocation of Trust. 71](#_Toc121396830)

[(e) Death of Key Principal or Guarantor; Transfer Due to Death. 72](#_Toc121396831)

[(f) Bankruptcy of Guarantor. 73](#_Toc121396832)

[(g) Further Conditions to Transfers and Assumption. 74](#_Toc121396833)

[(h) Additional Permitted Transfers. 75](#_Toc121396834)

[(i) [INSERT FOR APPLICABLE HTC TRANSACTIONS – CONFIRM WITH ORGANIZATIONAL DOCUMENTS: Historic Investor Transfers. 77](#_Toc121396835)

[Article 12 - IMPOSITIONS 78](#_Toc121396836)

[Section 12.01 Representations and Warranties. 78](#_Toc121396837)

[(a) Payment of Taxes, Assessments, and Other Charges. 79](#_Toc121396838)

[Section 12.02 Covenants. 79](#_Toc121396839)

[(a) Imposition Deposits, Taxes, and Other Charges. 79](#_Toc121396840)

[Section 12.03 Mortgage Loan Administration Matters Regarding Impositions. 80](#_Toc121396841)

[(a) Maintenance of Records by Lender. 80](#_Toc121396842)

[(b) Imposition Accounts. 80](#_Toc121396843)

[(c) Payment of Impositions; Sufficiency of Imposition Deposits. 80](#_Toc121396844)

[(d) Imposition Deposits Upon Event of Default. 81](#_Toc121396845)

[(e) Contesting Impositions. 81](#_Toc121396846)

[(f) Release to Borrower. 81](#_Toc121396847)

[Article 13 - REPLACEMENTS, REPAIRS, AND RESTORATION 82](#_Toc121396848)

[Section 13.01 Covenants. 82](#_Toc121396849)

[(a) Initial Deposits to Replacement Reserve Account, Repairs Escrow Account, and Restoration Reserve Account. 82](#_Toc121396850)

[(b) Monthly Replacement Reserve Deposits. 82](#_Toc121396851)

[(c) Payment and Deliverables for Replacements, Repairs, and Restoration. 82](#_Toc121396852)

[(d) Assignment of Contracts for Replacements, Repairs, and Restoration. 83](#_Toc121396853)

[(e) Indemnification. 83](#_Toc121396854)

[(f) Amendments to Loan Documents. 83](#_Toc121396855)

[(g) Administrative Fees and Expenses. 83](#_Toc121396856)

[Section 13.02 Mortgage Loan Administration Matters Regarding Reserves. 84](#_Toc121396857)

[(a) Accounts, Deposits, and Disbursements. 84](#_Toc121396858)

[(b) Approvals of Contracts; Assignment of Claims. 91](#_Toc121396859)

[(c) Delays and Workmanship. 91](#_Toc121396860)

[(d) Appointment of Lender as Attorney-In-Fact. 92](#_Toc121396861)

[(e) No Lender Obligation. 92](#_Toc121396862)

[(f) No Lender Warranty. 92](#_Toc121396863)

[Article 14 - DEFAULTS/REMEDIES 93](#_Toc121396864)

[Section 14.01 Events of Default. 93](#_Toc121396865)

[(a) Automatic Events of Default. 93](#_Toc121396866)

[(b) Events of Default Subject to a Specified Period. 94](#_Toc121396867)

[(c) Events of Default Subject to Extended Cure Period. 95](#_Toc121396868)

[Section 14.02 Remedies. 95](#_Toc121396869)

[(a) Acceleration; Foreclosure. 95](#_Toc121396870)

[(b) Loss of Right to Disbursements from Collateral Accounts. 96](#_Toc121396871)

[(c) Remedies Cumulative. 96](#_Toc121396872)

[(d) [INSERT FOR HTC TRANSACTIONS: Historic Investor Cure Rights. 97](#_Toc121396873)

[Section 14.03 Additional Lender Rights; Forbearance. 97](#_Toc121396874)

[(a) No Effect Upon Obligations. 97](#_Toc121396875)

[(b) No Waiver of Rights or Remedies. 98](#_Toc121396876)

[(c) Appointment of Lender as Attorney-In-Fact. 98](#_Toc121396877)

[(d) Borrower Waivers. 101](#_Toc121396878)

[Section 14.04 Waiver of Marshaling. 101](#_Toc121396879)

[Article 15 - MISCELLANEOUS 102](#_Toc121396880)

[Section 15.01 Governing Law; Consent to Jurisdiction and Venue. 102](#_Toc121396881)

[(a) Governing Law. 102](#_Toc121396882)

[(b) Venue. 102](#_Toc121396883)

[Section 15.02 Notice. 102](#_Toc121396884)

[(a) Process of Serving Notice. 102](#_Toc121396885)

[(b) Change of Address. 103](#_Toc121396886)

[(c) Default Method of Notice. 103](#_Toc121396887)

[(d) Receipt of Notices. 103](#_Toc121396888)

[(e) Master Lessee Notices. 103](#_Toc121396889)

[Section 15.03 Successors and Assigns Bound; Sale of Mortgage Loan. 104](#_Toc121396890)

[(a) Binding Agreement. 104](#_Toc121396891)

[(b) Sale of Mortgage Loan; Change of Servicer. 104](#_Toc121396892)

[Section 15.04 Counterparts. 104](#_Toc121396893)

[Section 15.05 Joint and Several (or Solidary) Liability. 104](#_Toc121396894)

[Section 15.06 Relationship of Parties; No Third Party Beneficiary. 104](#_Toc121396895)

[(a) Solely Creditor and Debtor. 104](#_Toc121396896)

[(b) No Third Party Beneficiaries. 104](#_Toc121396897)

[Section 15.07 Severability; Entire Agreement; Amendments. 105](#_Toc121396898)

[Section 15.08 Construction. 105](#_Toc121396899)

[Section 15.09 Mortgage Loan Servicing. 106](#_Toc121396900)

[Section 15.10 Disclosure of Information. 106](#_Toc121396901)

[Section 15.11 Waiver; Conflict. 107](#_Toc121396902)

[Section 15.12 No Reliance. 107](#_Toc121396903)

[Section 15.13 Subrogation. 107](#_Toc121396904)

[Section 15.14 Counting of Days. 107](#_Toc121396905)

[Section 15.15 Revival and Reinstatement of Indebtedness. 108](#_Toc121396906)

[Section 15.16 Time is of the Essence. 108](#_Toc121396907)

[Section 15.17 Final Agreement. 108](#_Toc121396908)

[Section 15.18 WAIVER OF TRIAL BY JURY. 108](#_Toc121396909)

[Section 15.19 Tax Savings Clause. 109](#_Toc121396910)

**MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**(Non-Recourse)**

**(Master Lease)**

This MULTIFAMILY LOAN AND SECURITY AGREEMENT (as amended, restated, replaced, supplemented, or otherwise modified from time to time, the “**Loan Agreement**”) is made as of the Effective Date (as hereinafter defined) by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Borrower**”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Lender**”).

**RECITALS:**

WHEREAS, Borrower desires to obtain the Mortgage Loan (as hereinafter defined) from Lender to be secured by the Mortgaged Property (as hereinafter defined); and

WHEREAS, Lender is willing to make the Mortgage Loan on the terms and conditions contained in this Loan Agreement and in the other Loan Documents (as hereinafter defined);

NOW, THEREFORE, in consideration of the making of the Mortgage Loan by Lender and other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, the parties hereby covenant, agree, represent, and warrant as follows:

**AGREEMENTS:**

# - DEFINITIONS; SUMMARY OF MORTGAGELOAN TERMS

## Defined Terms.

Capitalized terms not otherwise defined in the body of this Loan Agreement shall have the meanings set forth in the Definitions Schedule attached as Schedule 1 to this Loan Agreement.

## Schedules, Exhibits, and Attachments Incorporated.

The schedules, exhibits, and any other addenda or attachments are incorporated fully into this Loan Agreement by this reference and each constitutes a substantive part of this Loan Agreement.

 - GENERAL MORTGAGE LOAN TERMS

## Mortgage Loan Origination and Security.

### Making of Mortgage Loan.

Subject to the terms and conditions of this Loan Agreement and the other Loan Documents, Lender hereby makes the Mortgage Loan to Borrower, and Borrower hereby accepts the Mortgage Loan from Lender. Borrower covenants and agrees that it shall:

#### pay the Indebtedness, including the Prepayment Premium, if any (whether in connection with any voluntary prepayment or in connection with an acceleration by Lender of the Indebtedness), in accordance with the terms of this Loan Agreement and the other Loan Documents; and

#### perform, observe, and comply with this Loan Agreement and all other provisions of the other Loan Documents.

### Security for Mortgage Loan.

The Mortgage Loan is made pursuant to this Loan Agreement, is evidenced by the Note, and is secured by the Security Instrument, this Loan Agreement, and the other Loan Documents that are expressly stated to be security for the Mortgage Loan.

### Protective Advances.

As provided in the Security Instrument, Lender may take such actions or disburse such funds as Lender reasonably deems necessary to perform the obligations of Borrower under this Loan Agreement and the other Loan Documents, and to protect Lender’s interest in the Mortgaged Property.

## Payments on Mortgage Loan.

### Debt Service Payments.

* + - 1. Short Month Interest.

If the date the Mortgage Loan proceeds are disbursed is any day other than the first day of the month, interest for the period beginning on the disbursement date and ending on and including the last day of the month in which the disbursement occurs shall be payable by Borrower on the date the Mortgage Loan proceeds are disbursed. In the event that the disbursement date is not the same as the Effective Date, then:

* + - * 1. the disbursement date and the Effective Date must be in the same month, and
				2. the Effective Date shall not be the first day of the month.
			1. Interest Accrual and Computation.

Except as provided in Section 2.02(a)(1), interest shall be paid in arrears. Interest shall accrue as provided in the Schedule of Interest Rate Type Provisions and shall be computed in accordance with the Interest Accrual Method. If the Interest Accrual Method is “Actual/360,” Borrower acknowledges and agrees that the amount allocated to interest for each month will vary depending on the actual number of calendar days during such month.

* + - 1. Monthly Debt Service Payments.

Consecutive monthly debt service installments (comprised of either interest only or principal and interest, depending on the Amortization Type), each in the amount of the applicable Monthly Debt Service Payment, shall be due and payable on the First Payment Date, and on each Payment Date thereafter until the Maturity Date, at which time all Indebtedness shall be due. Any regularly scheduled Monthly Debt Service Payment that is received by Lender before the applicable Payment Date shall be deemed to have been received on such Payment Date solely for the purpose of calculating interest due. All payments made by Borrower under this Loan Agreement shall be made without set-off, counterclaim, or other defense.

* + - 1. Payment at Maturity.

The unpaid principal balance of the Mortgage Loan, any Accrued Interest thereon and all other Indebtedness shall be due and payable on the Maturity Date.

* + - 1. Interest Rate Type.

See the Schedule of Interest Rate Type Provisions for additional provisions, if any, specific to the Interest Rate Type.

### Capitalization of Accrued But Unpaid Interest.

Any accrued and unpaid interest on the Mortgage Loan remaining past due for thirty (30) days or more may, at Lender’s election, be added to and become part of the unpaid principal balance of the Mortgage Loan.

### Late Charges.

#### If any Monthly Debt Service Payment due hereunder is not received by Lender within ten (10) days (or fifteen (15) days for any Mortgaged Property located in Mississippi or North Carolina to comply with applicable law) after the applicable Payment Date, or any amount payable under this Loan Agreement (other than the payment due on the Maturity Date for repayment of the Mortgage Loan in full) or any other Loan Document is not received by Lender within ten (10) days (or fifteen (15) days for any Mortgaged Property located in Mississippi or North Carolina to comply with applicable law) after the date such amount is due, inclusive of the date on which such amount is due, Borrower shall pay to Lender, immediately without demand by Lender, the Late Charge.

The Late Charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 2.02(d).

#### Borrower acknowledges and agrees that:

##### its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Mortgage Loan;

##### it is extremely difficult and impractical to determine those additional expenses;

##### Lender is entitled to be compensated for such additional expenses; and

##### the Late Charge represents a fair and reasonable estimate, taking into account all circumstances existing on the date hereof, of the additional expenses Lender will incur by reason of any such late payment.

### Default Rate.

#### Default interest shall be paid as follows:

##### If any amount due in respect of the Mortgage Loan (other than amounts due on the Maturity Date) remains past due for thirty (30) days or more, interest on such unpaid amount(s) shall accrue from the date payment is due at the Default Rate and shall be payable upon demand by Lender.

##### If any Indebtedness due is not paid in full on the Maturity Date, then interest shall accrue at the Default Rate on all such unpaid amounts from the Maturity Date until fully paid and shall be payable upon demand by Lender.

Absent a demand by Lender, any such amounts shall be payable by Borrower in the same manner as provided for the payment of Monthly Debt Service Payments. To the extent permitted by applicable law, interest shall also accrue at the Default Rate on any judgment obtained by Lender against Borrower in connection with the Mortgage Loan. To the extent Borrower or any other Person is vested with a right of redemption, interest shall continue to accrue at the Default Rate during any redemption period until such time as the Mortgaged Property has been redeemed.

#### Borrower acknowledges and agrees that:

##### its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Mortgage Loan; and

##### in connection with any failure to timely pay all amounts due in respect of the Mortgage Loan on the Maturity Date, or during the time that any amount due in respect of the Mortgage Loan is delinquent for more than thirty (30) days:

###### Lender’s risk of nonpayment of the Mortgage Loan will be materially increased;

###### Lender’s ability to meet its other obligations and to take advantage of other investment opportunities will be adversely impacted;

###### Lender will incur additional costs and expenses arising from its loss of the use of the amounts due;

###### it is extremely difficult and impractical to determine such additional costs and expenses;

###### Lender is entitled to be compensated for such additional risks, costs, and expenses; and

###### the increase from the Interest Rate to the Default Rate represents a fair and reasonable estimate of the additional risks, costs, and expenses Lender will incur by reason of Borrower’s delinquent payment and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquency on the Mortgage Loan (taking into account all circumstances existing on the Effective Date).

### Address for Payments.

All payments due pursuant to the Loan Documents shall be payable at Lender’s Payment Address, or such other place and in such manner as may be designated from time to time by written notice to Borrower by Lender.

### Application of Payments.

If at any time Lender receives, from Borrower or otherwise, any payment in respect of the Indebtedness that is less than all amounts due and payable at such time, then Lender may apply such payment to amounts then due and payable in any manner and in any order determined by Lender or hold in suspense and not apply such payment at Lender’s election. Neither Lender’s acceptance of a payment that is less than all amounts then due and payable, nor Lender’s application of, or suspension of the application of, such payment, shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such payment to the Indebtedness, Borrower’s obligations under this Loan Agreement and the other Loan Documents shall remain unchanged.

## Lockout/Prepayment.

### Prepayment; Prepayment Lockout; Prepayment Premium.

#### Borrower shall not make a voluntary partial prepayment on the Mortgage Loan at any time during the Loan Term, or a voluntary full prepayment on the Mortgage Loan at any time during any Prepayment Lockout Period. Except as expressly provided in this Loan Agreement (including as provided in the Prepayment Premium Schedule), a Prepayment Premium calculated in accordance with the Prepayment Premium Schedule shall be payable in connection with any prepayment of the Mortgage Loan.

#### If a Prepayment Lockout Period applies to the Mortgage Loan, and during such Prepayment Lockout Period Lender accelerates the unpaid principal balance of the Mortgage Loan or otherwise applies collateral held by Lender to the repayment of any portion of the unpaid principal balance of the Mortgage Loan, the Prepayment Premium shall be due and payable and equal to the amount obtained by multiplying the percentage indicated (if at all) in the Prepayment Premium Schedule by the amount of principal being prepaid at the time of such acceleration or application.

### Voluntary Prepayment in Full.

At any time after the expiration of any Prepayment Lockout Period, Borrower may voluntarily prepay the Mortgage Loan in full on a Permitted Prepayment Date so long as:

#### Borrower delivers to Lender a Prepayment Notice specifying the Intended Prepayment Date not more than sixty (60) days, but not less than thirty (30) days (if given via U.S. Postal Service) or twenty (20) days (if given via facsimile, e-mail, or overnight courier) prior to such Intended Prepayment Date; and

#### Borrower pays to Lender an amount equal to the sum of:

##### the entire unpaid principal balance of the Mortgage Loan; plus

##### all Accrued Interest (calculated through the last day of the month in which the prepayment occurs); plus

##### the Prepayment Premium; plus

##### all other Indebtedness.

In connection with any such voluntary prepayment, Borrower acknowledges and agrees that interest shall always be calculated and paid through the last day of the month in which the prepayment occurs (even if the Permitted Prepayment Date for such month is not the last day of such month, or if Lender approves prepayment on an Intended Prepayment Date that is not a Permitted Prepayment Date). Borrower further acknowledges that Lender is not required to accept a voluntary prepayment of the Mortgage Loan on any day other than a Permitted Prepayment Date. However, if Lender does approve an Intended Prepayment Date that is not a Permitted Prepayment Date and accepts a prepayment on such Intended Prepayment Date, such prepayment shall be deemed to be received on the immediately following Permitted Prepayment Date. If Borrower fails to prepay the Mortgage Loan on the Intended Prepayment Date for any reason (including on any Intended Prepayment Date that is approved by Lender) and such failure either continues for five (5) Business Days, or into the following month, Lender shall have the right to recalculate the payoff amount. If Borrower prepays the Mortgage Loan **either in the following month or more than five (5) Business Days** after the Intended Prepayment Date that was approved by Lender, Lender shall also have the right to recalculate the payoff amount based upon the amount of such payment and the date such payment was received by Lender. Borrower shall immediately pay to Lender any additional amounts required by any such recalculation.

### Acceleration of Mortgage Loan.

Upon acceleration of the Mortgage Loan, Borrower shall pay to Lender:

#### the entire unpaid principal balance of the Mortgage Loan;

#### all Accrued Interest (calculated through the last day of the month in which the acceleration occurs);

#### the Prepayment Premium; and

#### all other Indebtedness.

### Application of Collateral.

Any application by Lender of any collateral or other security to the repayment of all or any portion of the unpaid principal balance of the Mortgage Loan prior to the Maturity Date in accordance with the Loan Documents shall be deemed to be a prepayment by Borrower. Any such prepayment shall require the payment to Lender by Borrower of the Prepayment Premium calculated on the amount being prepaid in accordance with this Loan Agreement.

### Casualty and Condemnation.

Notwithstanding any provision of this Loan Agreement to the contrary, no Prepayment Premium shall be payable with respect to any prepayment occurring as a result of the application of any insurance proceeds received in connection with a casualty or any amounts received in connection with a Condemnation Action in accordance with this Loan Agreement **[INSERT FOR SHARIA TRANSACTIONS:** or, if Lender deems the Mortgaged Property a total loss following any casualty event or a total condemnation following any Condemnation Action, a prepayment in full of the Indebtedness**]**.

### No Effect on Payment Obligations.

Unless otherwise expressly provided in this Loan Agreement, any prepayment required by any Loan Document of less than the entire unpaid principal balance of the Mortgage Loan shall not extend or postpone the due date of any subsequent Monthly Debt Service Payments, Monthly Replacement Reserve Deposit, or other payment, or change the amount of any such payments or deposits.

### Loss Resulting from Prepayment.

In any circumstance in which a Prepayment Premium is due under this Loan Agreement, Borrower acknowledges that:

#### any prepayment of the unpaid principal balance of the Mortgage Loan, whether voluntary or involuntary, or following the occurrence of an Event of Default by Borrower, will result in Lender’s incurring loss, including reinvestment loss, additional risk, expense, and frustration or impairment of Lender’s ability to meet its commitments to third parties;

#### it is extremely difficult and impractical to ascertain the extent of such losses, risks, and damages;

#### the formula for calculating the Prepayment Premium represents a reasonable estimate of the losses, risks, and damages Lender will incur as a result of a prepayment; and

#### the provisions regarding the Prepayment Premium contained in this Loan Agreement are a material part of the consideration for the Mortgage Loan, and that the terms of the Mortgage Loan are in other respects more favorable to Borrower as a result of Borrower’s voluntary agreement to such prepayment provisions.

#  - PERSONAL LIABILITY

## Non-Recourse Mortgage Loan; Exceptions.

Except as otherwise provided in this Article 3 or in any other Loan Document, none of Borrower, or any director, officer, manager, member, partner, shareholder, trustee, trust beneficiary, or employee of Borrower, shall have personal liability under this Loan Agreement or any other Loan Document for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under the Loan Documents, and Lender’s only recourse for the satisfaction of such Indebtedness and the performance of such obligations shall be Lender’s exercise of its rights and remedies with respect to the Mortgaged Property and any other collateral held by Lender as security for the Indebtedness. This limitation on Borrower’s liability shall not limit or impair Lender’s enforcement of its rights against Guarantor under any Loan Document. Borrower acknowledges and agrees that Borrower’s reliance upon incorrect or incomplete information received from Master Lessee, Guarantor, Key Principal, or other Persons and the reporting of the same to Lender, whether or not Borrower had actual knowledge that such information was incorrect or incomplete and whether or not Borrower is otherwise in violation of the terms of this Loan Agreement, shall not be (and Borrower or Guarantor shall not assert) a defense to Lender’s determination that an Event of Default has occurred or that Borrower (or Guarantor) has incurred personal liability as set forth in this Article 3.

## Personal Liability of Borrower (Exceptions to Non-Recourse Provision).

### Personal Liability Based on Lender’s Loss.

Borrower shall be personally liable to Lender for the repayment of the portion of the Indebtedness equal to any loss or damage suffered by Lender as a result of, subject to any notice and cure period, if any:

#### failure to pay as directed by Lender upon demand after an Event of Default (to the extent actually received by Borrower or Affiliated Master Lessee):

##### all Rents to which Lender is entitled under the Loan Documents; and

##### the amount of all security deposits then held or thereafter collected from tenants and not properly applied pursuant to the applicable Leases;

#### failure to maintain all insurance policies required by the Loan Documents, except to the extent Lender has the obligation to pay the premiums pursuant to Section 12.03(c);

#### failure to apply all insurance proceeds received by Borrower or Affiliated Master Lessee or any amounts received by Borrower or Affiliated Master Lessee in connection with a Condemnation Action, as required by the Loan Documents;

#### failure to comply with any provision of this Loan Agreement or any other Loan Document relating to the delivery of books and records, statements, schedules, and reports;

#### except to the extent directed otherwise by Lender pursuant to Section 3.02(a)(1), failure to apply Rents to the ordinary and necessary expenses of owning or operating, as applicable, the Mortgaged Property and Debt Service Amounts, as and when each is due and payable, except that Borrower will not be personally liable with respect to Rents that are distributed by Borrower in any calendar year if Borrower has paid all ordinary and necessary expenses of owning or operating, as applicable, the Mortgaged Property, and Debt Service Amounts for such calendar year;

#### waste or abandonment of the Mortgaged Property;

#### grossly negligent or reckless unintentional material misrepresentation or omission by Borrower, Affiliated Master Lessee, Guarantor, Key Principal, or any officer, director, partner, manager, member, shareholder, or trustee of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal in connection with ongoing financial or other reporting required by the Loan Documents, or any request for action or consent by Lender; **[or]**

#### any claims, actions, suits or proceedings arising from any tenant opportunity to purchase act applicable to and affecting the Mortgaged Property, including costs, attorneys’ fees, and expenses incurred in connection with such claims, actions, suits or proceedings**[**; or**][**.**]**

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** failure of the Master Lease to be subordinate to the lien of the Security Instrument or failure of the Master Lease to be terminated if so elected by Lender in accordance with the Loan Documents.**]**

Notwithstanding the foregoing, Borrower shall not have personal liability under clauses (1), (3), or (5) above to the extent that Borrower lacks the legal right to direct the disbursement of the applicable funds due to an involuntary Bankruptcy Event that occurs without the consent, encouragement, or active participation of Borrower, Affiliated Master Lessee, Guarantor, Key Principal, or any Borrower Affiliate.

### Full Personal Liability for Mortgage Loan.

Borrower shall be personally liable to Lender for the repayment of all of the Indebtedness, and the Mortgage Loan shall be fully recourse to Borrower, upon the occurrence of any of the following:

#### failure by Borrower to comply with the single-asset entity requirements of Section 4.02(d) of this Loan Agreement;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** failure by Affiliated Master Lessee to comply with the single-asset entity requirements of Section 4.02(d) of this Loan Agreement or of the Master Lease;**]**

#### a Transfer (other than a conveyance of the Mortgaged Property at a Foreclosure Event pursuant to the Security Instrument and this Loan Agreement) that is not permitted under this Loan Agreement or any other Loan Document;

#### the occurrence of any Bankruptcy Event (other than an acknowledgement in writing as described in clause (b) of the definition of “Bankruptcy Event”); provided, however, in the event of an involuntary Bankruptcy Event, Borrower shall only be personally liable if such involuntary Bankruptcy Event occurs with the consent, encouragement, or active participation of Borrower, Affiliated Master Lessee, Guarantor, Key Principal, or any Borrower Affiliate;

#### fraud, written material misrepresentation, or material omission by Borrower, Affiliated Master Lessee, Guarantor, Key Principal, or any officer, director, partner, manager, member, shareholder, or trustee of Borrower, Affiliated Master Lessee, Guarantor, or Key Principalin connection with any application for or creation of the Indebtedness;

#### fraud, written intentional material misrepresentation, or intentional material omission by Borrower, Affiliated Master Lessee, Guarantor, Key Principal, or any officer, director, partner, manager, member, shareholder, or trustee of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal in connection with ongoing financial or other reporting required by the Loan Documents or any request for action or consent by Lender; or

#### a Division that is not permitted under this Loan Agreement or any other Loan Document.

## Personal Liability for Indemnity Obligations.

Borrower shall be personally and fully liable to Lender for Borrower’s indemnity obligations under Section 13.01(e) of this Loan Agreement, **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Section 7.02(g)(4) of this Loan Agreement,**]** the Environmental Indemnity Agreement, and any other express indemnity obligations provided by Borrower under any Loan Document. Borrower’s liability for such indemnity obligations shall not be limited by the amount of the Indebtedness, the repayment of the Indebtedness, or otherwise, provided that Borrower’s liability for such indemnities shall not include any loss caused by the gross negligence or willful misconduct of Lender as determined by a court of competent jurisdiction pursuant to a final non-appealable court order.

## Lender’s Right to Forego Rights Against Mortgaged Property.

To the extent that Borrower has personal liability under this Loan Agreement or any other Loan Document, Lender may exercise its rights against Borrower personally to the fullest extent permitted by applicable law without regard to whether Lender has exercised any rights against the Mortgaged Property, the UCC Collateral, or any other security, or pursued any rights against Guarantor, or pursued any other rights available to Lender under this Loan Agreement, any other Loan Document, or applicable law. For purposes of this Section 3.04 only, the term “Mortgaged Property” shall not include any funds that have been applied by Borrower or Master Lessee as required or permitted by this Loan Agreement prior to the occurrence of an Event of Default, or that Borrower was unable to apply as required or permitted by this Loan Agreement because of a Bankruptcy Event. To the fullest extent permitted by applicable law, in any action to enforce Borrower’s personal liability under this Article 3, Borrower waives any right to set off the value of the Mortgaged Property against such personal liability.

#  - BORROWER AND MASTER LESSEE STATUS

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 4.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Due Organization and Qualification; Organizational Agreements.

#### Each of Borrower and Affiliated Master Lesseeis validly existing and qualified to transact business, and in good standing in:

##### the state in which it is formed or organized;

##### the state in which the Mortgaged Property is located; and

##### each other jurisdiction that qualification or good standing is required according to applicable law to conduct its business with respect to the Mortgaged Property and where the failure to be so qualified or in good standing would adversely affect Borrower’s ownership or operation of the Mortgaged Property or Affiliated Master Lessee’s leasing or operation (as applicable) of the Mortgaged Property or the validity, enforceability, or the ability of Borrower to perform its obligations under this Loan Agreement or any other Loan Document, or Affiliated Master Lessee under the Master Lease Documents.

#### True, correct and complete organizational documents of Borrower, Affiliated Master Lessee, Guarantor and Key Principal have been delivered to Lender prior to the Effective Date. The Ownership Interests Schedule attached hereto as Schedule 8 to this Loan Agreement sets forth:

##### the direct owners of Borrower and Affiliated Master Lessee and their respective interests;

##### the indirect owners (and any non-member managers) of Borrower that Control Borrower and their respective interests (excluding any Publicly-Held Corporations or Publicly-Held Trusts);

##### the indirect owners of Borrower that hold twenty-five percent (25%) or more of the ownership interests in Borrower and their respective interests (excluding any Publicly-Held Corporations or Publicly-Held Trusts);

##### the indirect owners (and any non-member managers) of Affiliated Master Lessee that Control Affiliated Master Lessee and their respective interests (excluding any Publicly-Held Corporations or Publicly-Held Trusts); and

##### the indirect owners of Affiliated Master Lessee that hold twenty-five percent (25%) or more of the ownership interests in Affiliated Master Lessee and their respective interests (excluding any Publicly-Held Corporations or Publicly-Held Trusts).

### Location.

Borrower’s General Business Address is Borrower’s principal place of business and principal office. Master Lessee’s General Business Address is Master Lessee’s principal place of business and principal office.

### Power and Authority.

#### Borrower has the requisite power and authority:

##### to own the Mortgaged Property and to carry on its business as now conducted and as contemplated to be conducted in connection with the performance of its obligations under this Loan Agreement and under the other Loan Documents to which it is a party;

##### to execute and deliver this Loan Agreement and the other Loan Documents to which it is a party, and to carry out the transactions contemplated by this Loan Agreement and the other Loan Documents to which it is a party; and

##### to execute and deliver the Master Lease Documents to which it is a party, and to carry out the transactions contemplated by the Master Lease Documents.

#### Affiliated Master Lessee has the requisite power and authority:

##### to manage, lease, and operate (as applicable) the Mortgaged Property and to carry on its business as now conducted and as contemplated to be conducted in connection with the performance of its obligations under the Master Lease Documents; and

##### to execute and deliver the Master Lease Documents, to carry out the transactions contemplated by the Master Lease Documents, and to facilitate Borrower’s compliance with the requirements of this Loan Agreement and the other Loan Documents.

### Due Authorization.

#### The execution, delivery, and performance by Borrower of this Loan Agreement, the other Loan Documents to which Borrower is a party, and the Master Lease Documents to which Borrower is a party have been duly authorized by all necessary action and proceedings by or on behalf of Borrower, and no further approvals or filings of any kind, including any approval of or filing with any Governmental Authority, are required by or on behalf of Borrower as a condition to the valid execution, delivery, and performance by Borrower of this Loan Agreement, any other Loan Documents to which Borrower is a party, or the Master Lease Documents, except filings required to perfect and maintain the liens to be granted under the Loan Documents and routine filings to maintain the good standing and existence of Borrower.

#### The execution, delivery, and performance by Affiliated Master Lessee of the Master Lease **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** , the SASA,**]** and other Master Lease Documents have been duly authorized by all necessary action and proceedings by or on behalf of Affiliated Master Lessee, and no further approvals or filings of any kind, including any approval of or filing with any Governmental Authority, are required by or on behalf of Affiliated Master Lessee as a condition to the valid execution, delivery, and performance by Affiliated Master Lessee of the Master Lease **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** , the SASA,**]** or the other Master Lease Documents, except filings required to perfect and maintain the liens to be granted under **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** the SASA or**]** the Master Lease Documents and routine filings to maintain the good standing and existence of Affiliated Master Lessee.

### Valid and Binding Obligations.

#### This Loan Agreement, the other Loan Documents, and the Master Lease Documents to which Borrower is a party have been duly executed and delivered by Borrower and constitute the legal, valid, and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as such enforceability may be limited by applicable Insolvency Laws or by the exercise of discretion by any court.

#### The Master Lease **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** , the SASA,**]** and other Master Lease Documents have been duly executed and delivered by Affiliated Master Lessee and constitute the legal, valid, and binding obligations of Affiliated Master Lessee, enforceable against Affiliated Master Lessee in accordance with their respective terms, except as such enforceability may be limited by applicable Insolvency Laws or by the exercise of discretion by any court.

### Effect of Mortgage Loan on Borrower’s Financial Condition.

The Mortgage Loan will not render Borrower Insolvent, and the Master Lease Document obligations will not render Affiliated Master Lessee Insolvent. Borrower has sufficient working capital, including proceeds from the Mortgage Loan, cash flow from the Mortgaged Property including the Master Lease, or other sources, not only to adequately maintain the Mortgaged Property in accordance with the terms of the Loan Documents and the Master Lease, but also to pay all of Borrower’s outstanding debts as they come due, including all Debt Service Amounts, exclusive of Borrower’s ability to refinance or pay in full the Mortgage Loan on the Maturity Date. In connection with the execution and delivery of this Loan Agreement and the other Loan Documents (and the delivery to, or for the benefit of, Lender of any collateral contemplated thereunder), and the incurrence by Borrower of the obligations under this Loan Agreement and the other Loan Documents, Borrower did not receive less than reasonably equivalent value in exchange for the incurrence of the obligations of Borrower under this Loan Agreement and the other Loan Documents. Affiliated Master Lessee has sufficient working capital, cash flow from the Mortgaged Property, or other resources, not only to maintain the Mortgaged Property in accordance with the terms of the Master Lease, but also to pay the rents and other obligations under the Master Lease Documents, as well as other obligations under this Loan Agreement and the other Loan Documents that Borrower elects to pass through to Affiliated Master Lessee pursuant to the terms of the Master Lease.

### Economic Sanctions, Anti-Money Laundering, and Anti-Corruption.

#### None of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, or to Borrower’s knowledge, any Person Controlling Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, or any Person Controlled by Borrower, Affiliated Master Lessee, Guarantor, or Key Principal that also has a direct or indirect ownership interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, is in violation of any applicable civil or criminal laws or regulations, including those requiring internal controls, intended to prohibit, prevent, or regulate money laundering, drug trafficking, terrorism, or corruption, of the United States and the jurisdiction where the Mortgaged Property is located or where the Person resides, is domiciled, or has its principal place of business.

#### None of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, or to Borrower’s knowledge, any Person Controlling Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, or any Person Controlled by Borrower, Affiliated Master Lessee, Guarantor, or Key Principal that also has a direct or indirect ownership interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, is a Person:

##### against whom proceedings are pending for any alleged violation of any laws described in Section 4.01(g)(1);

##### that has been convicted of any violation of, has been subject to civil penalties or Economic Sanctions pursuant to, or had any of its property seized or forfeited under any laws described in Section 4.01(g)(1);

##### with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Loan Agreement and the other Loan Documents under any other applicable law; or

##### that is deemed a Sanctioned Person.

#### Borrower, Affiliated Master Lessee, Guarantor, and Key Principal are in compliance with all applicable Economic Sanctions laws and regulations.

### Single Asset Status of Borrower [INSERT FOR SHARIA AND HTC TRANSACTIONS: and Affiliated Master Lessee].

Borrower represents that:

#### Borrower does not own or lease any real property, personal property, or assets other than the Mortgaged Property;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Affiliated Master Lessee does not own or operate any real or personal property other than the Mortgaged Property pursuant to the Master Lease and does not own any other real property, personal property, or other assets;**]**

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither Borrower nor Affiliated Master Lessee owns, operates, or participates**][INSERT FOR ALL OTHER TRANSACTIONS:** Borrower does not own, operate, or participate**]** in any business other than the leasing, ownership, management, operation, and maintenance of the Mortgaged Property;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither Borrower nor Affiliated Master Lessee has any**][INSERT FOR ALL OTHER TRANSACTIONS:** Borrower has no**]** material financial obligation under or secured by any indenture, mortgage, deed of trust, deed to secure debt, loan agreement, or other agreement or instrument to which Borrower **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** or Affiliated Master Lessee, respectively,**]** is a party, or by which Borrower **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** or Affiliated Master Lessee**]** is otherwise bound, or to which the Mortgaged Property is subject or by which it is otherwise encumbered, other than:

##### Permitted Equipment Financing and unsecured trade payables incurred in the ordinary course of the operation of the Mortgaged Property (exclusive of amounts for rehabilitation, restoration, repairs, or replacements of the Mortgaged Property) that are not evidenced by a promissory note, are payable within sixty (60) days of the date incurred, and as of the Effective Date, do not exceed, in the aggregate, four percent (4%) of the original principal balance of the Mortgage Loan;

##### if the Security Instrument grants a lien on a leasehold estate, Borrower’s obligations as lessee under the ground lease creating such leasehold estate;

##### with respect to Borrower only, obligations under the Loan Documents and obligations secured by the Mortgaged Property to the extent permitted by the Loan Documents;

##### obligations under the Permitted Encumbrances; and

##### Borrower’s **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** and Master Lessee’s respective**]** obligations under the Master Lease Documents;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Borrower and Affiliated Master Lessee have maintained their respective**] [INSERT FOR ALL OTHER TRANSACTIONS:** Borrower has maintained its**]** financial statements, accounting records, and other partnership, real estate investment trust, limited liability company, or corporate documents, as the case may be, separate from those of any other Person (unless Borrower’s **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** or Affiliated Master Lessee’s**]** assets have been included in a consolidated financial statement prepared in accordance with generally accepted accounting principles);

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither Borrower nor Affiliated Master Lessee has**] [INSERT FOR ALL OTHER TRANSACTIONS:** Borrower has not**]** commingled its assets or funds with those of any other Person, unless such assets or funds can easily be segregated and identified in the ordinary course of business from those of any other Person;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** each of Borrower and Affiliated Master Lessee**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower**]** has been adequately capitalized in light of its contemplated business operations;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither Borrower nor Affiliated Master Lessee has**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower has not**]** assumed, guaranteed, or pledged its assets to secure the liabilities or obligations of any other Person (except in connection with the Mortgage Loan or other mortgage loans that have been paid in full or collaterally assigned to Lender, including in connection with any Consolidation, Extension and Modification Agreement or similar instrument), or held out its credit as being available to satisfy the obligations of any other Person;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither Borrower nor Affiliated Master Lessee has**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower has not**]** made loans or advances to any other Person;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither Borrower nor Affiliated Master Lessee has entered into, or is**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower has not entered into and is not**]** a party to, any transaction with any Borrower Affiliate **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** or Affiliate of Affiliated Master Lessee, respectively,**]** except in the ordinary course of business and on terms which are no more favorable to any such Borrower Affiliate **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** or Affiliate of Affiliated Master Lessee, respectively,**]** than would be obtained in a comparable arm’s-length transaction with an unrelated third party **[INSERT FOR AFFILIATED MASTER LESSEE TRANSACTIONS:** , provided that neither Borrower’s acquisition of the Mortgaged Property nor Borrower’s entry into and performance of its obligations under the Master Lease Documents shall be deemed to breach this representation**]**; and

#### neither Borrower nor Affiliated Master Lessee has sought or has plansto Divide at any time during the Loan Term.

### No Bankruptcies or Judgments.

None of Borrower, Master Lessee, Guarantor, or Key Principal, or to Borrower’s knowledge, any Person Controlling Borrower, Master Lessee, Guarantor, or Key Principal, or any Person Controlled by Borrower, Master Lessee, Guarantor, or Key Principal that also has a direct or indirect ownership interest in Borrower, Master Lessee, Guarantor, or Key Principal, is currently:

#### the subject of or a party to any completed or pending bankruptcy, reorganization, including any receivership or other insolvency proceeding;

#### preparing or intending to be the subject of a Bankruptcy Event or a Guarantor Bankruptcy Event;

#### the subject of any judgment unsatisfied of record or docketed in any court; or

#### Insolvent.

### No Actions or Litigation.

#### Other than residential eviction actions in the ordinary course of business, there are no claims, actions, suits, or proceedings at law or in equity by or before any Governmental Authority now pending against or, to Borrower’s knowledge, threatened against or affecting Borrower, Affiliated Master Lessee, the Master Lease, or the Mortgaged Property not otherwise covered by insurance (except claims, actions, suits, or proceedings regarding fair housing, anti-discrimination, equal opportunity, or any tenant opportunity to purchase act applicable to and affecting the Mortgaged Property, which shall always be disclosed); and

#### there are no claims, actions, suits, or proceedings at law or in equity by or before any Governmental Authority now pending or, to Borrower’s knowledge, threatened against or affecting Affiliated Master Lessee, Guarantor, or Key Principal, which claims, actions, suits, or proceedings, if adversely determined (individually or in the aggregate) reasonably would be expected to materially adversely affect the financial condition or business of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal or the condition, operation, or ownership of the Mortgaged Property (except claims, actions, suits, or proceedings regarding fair housing, anti-discrimination, or equal opportunity, which shall always be deemed material), or result in the appointment of a receiver, trustee or other official that would exercise control over the Mortgaged Property and its management and operations.

### Payment of Taxes, Assessments, and Other Charges.

Borrower confirms that:

#### each of Borrower and Affiliated Master Lessee has filed all federal, state, county, and municipal tax returns and reports required to have been filed by it;

#### each of Borrower and Affiliated Master Lessee has paid, before any fine, penalty interest, lien, or costs may be added thereto, all taxes, governmental charges, and assessments due and payable with respect to such returns and reports;

#### there is no controversy or objection pending, or to the knowledge of Borrower, threatened in respect of any tax returns of Borrower or Affiliated Master Lessee; and

#### each of Borrower and Affiliated Master Lessee has made adequate reserves on its books and records for all taxes that have accrued but which are not yet due and payable.

### Not a Foreign Person.

**[INSERT FOR SHARIA TRANSACTIONS ONLY:** Neither Borrower nor Affiliated Master Lessee is**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower is not**]** a “foreign person” within the meaning of Section 1445(f)(3) of the Internal Revenue Code.

### ERISA.

Borrower represents and warrants that:

#### neither Borrower nor Affiliated Master Lessee is an Employee Benefit Plan;

#### no asset of Borrower or Affiliated Master Lessee constitutes “plan assets” (within the meaning of Section 3(42) of ERISA and Department of Labor Regulation Section 2510.3‑101) of an Employee Benefit Plan;

#### no asset of Borrower or Affiliated Master Lessee is subject to any laws of any Governmental Authority governing the assets of an Employee Benefit Plan; and

#### none of Borrower, Affiliated Master Lessee, or any ERISA Affiliate is subject to any obligation or liability with respect to any ERISA Plan.

### Default Under Other Obligations.

#### The execution, delivery, and performance of the obligations imposed on Borrower under this Loan Agreement and the Loan Documents to which it is a party will not cause Borrower to be in default under the provisions of any agreement, judgment or order to which Borrower is a party or by which Borrower is bound, and the execution, delivery and performance of the obligations imposed on Affiliated Master Lessee or Borrower under the Master Lease Documents will not cause Affiliated Master Lessee or Borrower to be in default under the provisions of any agreement, judgment, or order to which Affiliated Master Lessee or Borrower is a party or by which Affiliated Master Lessee or Borrower is bound.

#### None of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal is in default under any obligation to Lender. There is no condition under the Master Lease Documents that would cause Borrower, Affiliated Master Lessee, Guarantor, or Key Principal to be in default under any obligation to Lender.

### Prohibited Person.

None of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal is a Prohibited Person. To Borrower’s knowledge, none of the following is a Prohibited Person:

#### Any Person Controlling Borrower, Affiliated Master Lessee, Guarantor, or Key Principal; or

#### Any Person Controlled by and having a direct or indirect ownership interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal.

### No Contravention.

None of the execution and delivery of this Loan Agreement, the other Loan Documents to which Borrower or Affiliated Master Lessee is a party, or the Master Lease Documents to which Borrower or Affiliated Master Lessee is a party, fulfillment of or compliance with the terms and conditions of this Loan Agreement, the other Loan Documents to which Borrower or Affiliated Master Lessee is a party, or the Master Lease Documents to which Borrower or Affiliated Master Lessee is a party, or performance of the obligations of Borrower or Affiliated Master Lessee under this Loan Agreement, the other Loan Documents, or the Master Lease Documents does or will conflict with or result in any breach or violation of, or constitute a default under, any of the terms, conditions, or provisions of Borrower’s or Affiliated Master Lessee’s organizational documents, or any indenture, existing agreement, or other instrument to which Borrower or Affiliated Master Lessee is a party or to which Borrower, or Affiliated Master Lessee, the Mortgaged Property, or other assets of Borrower or Affiliated Master Lessee are subject.

### Lockbox Arrangement.

Borrower is not party to any type of lockbox agreement or similar cash management arrangement that has not been approved by Lender in writing, and no direct or indirect owner of Borrower, Affiliated Master Lessee, and direct or indirect owner of Affiliated Master Lessee, is party to any type of lockbox agreement or similar cash management arrangement with respect to Rents or other income from the Mortgaged Property that has not been approved by Lender in writing.

## Covenants.

### Maintenance of Existence; Organizational Documents.

Borrower and Affiliated Master Lessee shall each maintain its existence, its entity status, franchises, rights, and privileges under the laws of the state of its formation or organization (as applicable). Borrower and Affiliated Master Lessee shall each continue to be duly qualified and in good standing to transact business in each state in which qualification or standing is required according to applicable law to conduct its business with respect to the Mortgaged Property and where the failure to do so would adversely affect Borrower’s or Affiliated Master Lessee’s applicable ownership or operation of the Mortgaged Property or the validity, enforceability or the ability of Borrower to perform its obligations under this Loan Agreement or any other Loan Document, or Affiliated Master Lessee to perform its obligations under the Master Lease Documents. Neither Borrower nor any partner, member, manager, officer, or director of Borrower, nor Affiliated Master Lessee nor any partner, member, manager, officer, or director of Affiliated Master Lessee, shall:

#### make or allow any material change to the organizational documents or organizational structure of Borrower or Affiliated Master Lessee, including changes relating to the Control of Borrower or Affiliated Master Lessee; or

#### file any action, complaint, petition, or other claim to:

##### divide, partition, or otherwise compel the sale of the Mortgaged Property, or

##### otherwise change the Control of Borrower or Affiliated Master Lessee.

### Economic Sanctions, Anti-Money Laundering, and Anti-Corruption.

#### Borrower, Affiliated Master Lessee, Guarantor, Key Principal, and any Person Controlling Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, or any Person Controlled by Borrower, Affiliated Master Lessee, Guarantor, or Key Principal that also has a direct or indirect ownership interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal shall remain in compliance with any applicable civil or criminal laws or regulations (including those requiring internal controls) intended to prohibit, prevent, or regulate money laundering, drug trafficking, terrorism, or corruption, of the United States and the jurisdiction where the Mortgaged Property is located or where the Person resides, is domiciled, or has its principal place of business.

#### At no time shall Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, or any Person Controlling Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, or any Person Controlled by Borrower, Affiliated Master Lessee, Guarantor, or Key Principal that also has a direct or indirect ownership interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal, be a Person:

##### against whom proceedings are pending for any alleged violation of any laws described in Section 4.02(b)(1);

##### that has been convicted of any violation of, has been subject to civil penalties or Economic Sanctions pursuant to, or had any of its property seized or forfeited under, any laws described in Section 4.02(b)(1);

##### with whom any United States Person, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories, is prohibited from transacting business of the type contemplated by this Loan Agreement and the other Loan Documents under any other applicable law; or

##### that is deemed a Sanctioned Person.

#### Borrower shall at all times:

##### remain, and shall cause Affiliated Master Lessee, Guarantor, and Key Principal to remain, in compliance with any applicable Economic Sanctions laws and regulations;

##### **[INSERT FOR SHARIA TRANSACTIONS:** cooperate, and cause Affiliated Master Lessee to cooperate, with Lender’s efforts to monitor compliance with Section 4.02(b)(3)(A) above, including providing Lender with the information requested by Lender from time to time, and the following for all Persons owning a direct or indirect interest in Borrower, Affiliated Master Lessee, Guarantor, and Key Principal: full legal name, the beneficial interest owned in Borrower, Affiliated Master Lessee, Guarantor, and Key Principal, address of permanent residence, country and date of birth, country of citizenship, and passport information. If the transferee is a private company, the manager of the Master Lessee will provide the same information for the company’s shareholders or other direct or indirect owners; and**]**

##### **[INSERT FOR SHARIA TRANSACTIONS:** promptly report any non-compliance occurrence to Lender and take all actions, and cause Affiliated Master Lessee to take all actions, as may be required by applicable law.**]**

### Payment of Taxes, Assessments, and Other Charges.

Borrower and Affiliated Master Lessee shall each file all federal, state, county, and municipal tax returns and reports required to be filed by Borrower and Affiliated Master Lessee, respectively, and shall pay, or cause to be paid before any fine, penalty interest, or cost may be added thereto, all taxes payable with respect to such returns and reports.

### Borrower [INSERT FOR SHARIA AND HTC TRANSACTIONS: and Affiliated Master Lessee] Single Asset Status.

Until the Indebtedness is fully paid, Borrower **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** and Affiliated Master Lessee**]** shall comply with the following:

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither such entity shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall not**]** acquire, lease, or operate any real property, personal property, or assets other than, pursuant to the Master Lease, the fee or leasehold interest in the Mortgaged Property, as applicable;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither such entity shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall not**]** acquire, own, operate, or participate in any business other than, as lessor pursuant to the Master Lease, the leasing, ownership, management, operation, and maintenance of the Mortgaged Property;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither such entity shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall not**]** commingle its assets or funds with those of any other Person, unless such assets or funds can easily be segregated and identified in the ordinary course of business from those of any other Person;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** each such entity shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall**]** maintain its financial statements, accounting records, and other partnership, real estate investment trust, limited liability company, or corporate documents, as the case may be, separate from those of any other Person (unless **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** such entity’s**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower’s**]** assets are included in a consolidated financial statement prepared in accordance with generally accepted accounting principles);

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** each such entity shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall**]** have no material financial obligation under any indenture, mortgage, deed of trust, deed to secure debt, loan agreement, other agreement or instrument to which it is a party or by which it is otherwise bound, or to which the Mortgaged Property is subject or by which it is otherwise encumbered, other than:

##### Permitted Equipment Financing or unsecured trade payables incurred in the ordinary course of the operation of the Mortgaged Property (exclusive of amounts to be paid out of the Replacement Reserve Account or Repairs Escrow Account, or for rehabilitation, restoration, repairs, or replacements of the Mortgaged Property or otherwise approved by Lender) so long as such trade payables are not evidenced by a promissory note, are payable within sixty (60) days of the date incurred, and as of any date, do not exceed, in the aggregate, two percent (2%) of the original principal balance of the Mortgage Loan; provided, however, that otherwise compliant outstanding trade payables may exceed two percent (2%) up to an aggregate amount of four percent (4%) of the original principal balance of the Mortgage Loan for a period (beginning on or after the Effective Date) not to exceed ninety (90) consecutive days;

##### if the Security Instrument grants a lien on a leasehold estate, Borrower’s obligations as lessee under the ground lease creating such leasehold estate;

##### obligations under the Loan Documents and obligations secured by the Mortgaged Property to the extent permitted by the Loan Documents; and

##### obligations under the Permitted Encumbrances.

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Neither Borrower nor Affiliated Master Lessee shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall not**]** assume, guaranty, or pledge its assets to secure the liabilities or obligations of any other Person (except in connection with the Mortgage Loan or other mortgage loans that have been paid in full or collaterally assigned to Lender, including in connection with any Consolidation, Extension and Modification Agreement or similar instrument) or hold out its credit as being available to satisfy the obligations of any other Person;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Neither Borrower nor Affiliated Master Lessee shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall not**]** make loans or advances to any other Person;

#### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Other than the Master Lease, neither Borrower nor Affiliated Master Lessee shall**]** **[INSERT FOR ALL OTHER TRANSACTIONS:** Borrower shall not**]** enter into, or become a party to, any transaction with any Borrower Affiliate (or Affiliate of an Affiliated Master Lessee), except in the ordinary course of business and on terms which are no more favorable to any such Borrower Affiliate (or Affiliate of an Affiliated Master Lessee) than would be obtained in a comparable arm’s-length transaction with an unrelated third party **[INSERT FOR AFFILIATED MASTER LESSEE TRANSACTIONS:** , provided that neither Borrower’s acquisition of the Mortgaged Property nor Borrower’s entry into and performance of its obligations under the Master Lease Documents shall be deemed to breach this covenant**]**; or

#### neither Borrower nor Affiliated Master Lessee shall Divide.

### ERISA.

#### Borrower covenants that:

#### no asset of Borrower or **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Affiliated**]** Master Lessee shall constitute “plan assets” (within the meaning of Section 3(42) of ERISA and Department of Labor Regulation Section 2510.3‑101) of an Employee Benefit Plan;

#### no asset of Borrower or **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Affiliated**]** Master Lessee shall be subject to the laws of any Governmental Authority governing the assets of an Employee Benefit Plan; and

#### none of Borrower, **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Affiliated**]** Master Lessee, nor any ERISA Affiliate shall incur any obligation or liability with respect to any ERISA Plan.

### Notice of Litigation or Insolvency.

Borrower shall give immediate written notice to Lender of any claims, actions, suits, or proceedings at law or in equity (including any insolvency, bankruptcy, or receivership proceeding) by or before any Governmental Authority pending or, to Borrower’s knowledge, threatened against or affecting Borrower, Master Lessee, the Master Lease, Guarantor, Key Principal, or the Mortgaged Property, which claims, actions, suits, or proceedings, if adversely determined reasonably would be expected to materially adversely affect the financial condition or business of Borrower, Master Lessee, the Master Lease, Guarantor, or Key Principal, or the condition, operation, or ownership of the Mortgaged Property (including any claims, actions, suits, or proceedings regarding fair housing, anti-discrimination, equal opportunity, or any tenant opportunity to purchase act applicable to and affecting the Mortgaged Property, which shall always be deemed material).

### Payment of Costs, Fees, and Expenses.

In addition to the payments specified in this Loan Agreement, Borrower shall pay, on demand, all of Lender’s out-of-pocket fees, costs, charges, or expenses (including the reasonable fees and expenses of attorneys, accountants, and other experts) incurred by Lender in connection with:

#### any amendment to, or consent, or waiver required under, this Loan Agreement, any of the Loan Documents, or the Master Lease Documents (whether or not any such amendment, consent, or waiver is entered into);

#### defending or participating in any litigation arising from actions by third parties and brought against or involving Lender with respect to:

##### the Mortgaged Property, including the Master Lease;

##### any event, act, condition, or circumstance in connection with the Mortgaged Property; or

##### the relationship between or among Lender, Borrower, Master Lessee, Key Principal, and Guarantor in connection with this Loan Agreement or any of the transactions contemplated by this Loan Agreement or the Master Lease Documents;

#### the administration or enforcement of, or preservation of rights or remedies under, this Loan Agreement or any other Loan Documents including or in connection with any litigation or appeals, any Foreclosure Event or other disposition of any collateral granted pursuant to the Loan Documents or collateral to which Lender acquires rights in virtue of the Master Lease; and

#### any Bankruptcy Event or Guarantor Bankruptcy Event.

### Restrictions on Distributions.

No distributions or dividends of any nature with respect to Rents or other income from the Mortgaged Property shall be made to any Person having a direct ownership interest in Borrower or Affiliated Master Lessee if an Event of Default has occurred and is continuing.

### Lockbox Arrangement.

Borrower shall not enter into any type of lockbox agreement or similar cash management arrangement that has not been approved by Lender in writing, and no direct or indirect owner of Borrower, Affiliated Master Lessee, and direct or indirect owner of Affiliated Master Lessee, shall enter into any type of lockbox agreement or similar cash management arrangement with respect to Rents or other income from the Mortgaged Property that has not been approved by Lender in writing. Lender’s approval of any such cash management arrangement may be conditioned upon requiring Borrower to enter into a lockbox agreement or similar cash management arrangement with Lender in form and substance acceptable to Lender with regard to Rents and other income from the Mortgaged Property.

# - THE MORTGAGE LOAN

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 5.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Receipt and Review of Loan Documents.

Borrower has received and reviewed this Loan Agreement and all of the other Loan Documents.

### No Default.

No default exists under any of the Loan Documents.

### No Defenses.

The Loan Documents are not currently subject to any right of rescission, set-off, counterclaim, or defense by either Borrower or Guarantor, including the defense of usury, and neither Borrower nor Guarantor has asserted any right of rescission, set-off, counterclaim, or defense with respect thereto.

### Loan Document Taxes.

All mortgage, mortgage and lease recording, stamp, intangible, or any other similar taxes required to be paid by any Person under applicable law currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection, or enforcement of any of the Loan Documents, including the Security Instrument, or the Master Lease Documents have been paid or will be paid in the ordinary course of the closing of the Mortgage Loan.

## Covenants.

### Ratification of Covenants; Estoppels; Certifications.

Borrower shall:

#### promptly notify Lender in writing upon any violation of any covenant set forth in any Loan Document of which Borrower has notice or knowledge; provided, however, any such written notice by Borrower to Lender shall not relieve Borrower of, or result in a waiver of, any obligation under this Loan Agreement or any other Loan Document; and

#### within ten (10) days after a request from Lender, provide a written statement, signed and acknowledged by Borrower, together with such corresponding certifications from Master Lessee as Lender may request, certifying to Lender or any person designated by Lender, as of the date of such statement:

##### that the Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications);

##### the unpaid principal balance of the Mortgage Loan;

##### the date to which interest on the Mortgage Loan has been paid;

##### that Borrower is not in default in paying the Indebtedness, or in performing or observing any of the covenants or agreements contained in this Loan Agreement or any of the other Loan Documents (or, if Borrower is in default, describing such default in reasonable detail);

##### whether or not there are then-existing any setoffs or defenses known to Borrower against the enforcement of any right or remedy of Lender under the Loan Documents; and

##### any additional facts reasonably requested in writing by Lender.

### Further Assurances.

* + - 1. Other Documents As Lender May Require.

Within ten (10) days after request by Lender, Borrower shall, subject to Section 5.02(d) below, execute, acknowledge, deliver, and, if necessary, file or record, at its cost and expense, all further acts, deeds, conveyances, assignments, financing statements, transfers, documents, agreements, assurances, and such other instruments as Lender may reasonably require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Loan Agreement and the other Loan Documents.

* + - 1. Corrective Actions.

Within ten (10) days after request by Lender, Borrower shall provide, or cause to be provided, to Lender, at Borrower’s cost and expense, such further documentation or information reasonably deemed necessary or appropriate by Lender in the exercise of its rights under the related commitment letter between Borrower and Lender or to correct patent mistakes in the Loan Documents, the Title Policy, or the funding of the Mortgage Loan.

* + - 1. Compliance with Investor Requirements.

Without limiting the generality of subsections (1) and (2) above, Borrower shall, subject to Section 5.02(d) below, take all reasonable actions necessary to comply with the requirements of Lender to enable Lender to sell any MBS backed by the Mortgage Loan or create or maintain the expected federal income tax treatment of any MBS trust that directly or indirectly holds the Mortgage Loan and issues MBS as a Fixed Investment Trust or REMIC, as the case may be, within the meaning of the Treasury Regulations.

### Sale of Mortgage Loan.

Borrower shall, subject to Section 5.02(d) below:

#### comply with the reasonable requirements of Lender or any Investor of the Mortgage Loan or provide, or cause to be provided, to Lender or any Investor of the Mortgage Loan within ten (10) days after the request, at Borrower’s cost and expense, such further documentation or information as Lender or Investor may reasonably require, in order to:

##### enable Lender to sell the Mortgage Loan or participation interests therein to such Investor;

##### enable Lender to obtain a refund of any commitment fee from any such Investor;

##### enable any such Investor to further sell or securitize the Mortgage Loan; or

##### create or maintain the expected federal income tax treatment of any MBS trust that directly or indirectly holds the Mortgage Loan and issues MBS as a Fixed Investment Trust or REMIC, as the case may be, within the meaning of the Treasury Regulations;

#### ratify and affirm in writing the representations and warranties set forth in any Loan Document as of such date specified by Lender modified as necessary to reflect changes that have occurred subsequent to the Effective Date;

#### confirm that Borrower is not in default in paying the Indebtedness or in performing or observing any of the covenants or agreements contained in this Loan Agreement or any of the other Loan Documents (or, if Borrower is in default, describing such default in reasonable detail); and

#### execute and deliver to Lender and/or any Investor such other documentation, including any amendments, corrections, deletions, or additions to this Loan Agreement or other Loan Document(s) as is reasonably required by Lender or such Investor.

### Limitations on Further Acts of Borrower.

Nothing in Section 5.02(b) and Section 5.02(c) shall require Borrower to do any further act that has the effect of:

#### changing the economic terms of the Mortgage Loan set forth in the related commitment letter between Borrower **[INSERT AS APPLICABLE:** , Affiliated Master Lessee,**]** and Lender;

#### imposing on Borrower **[INSERT AS APPLICABLE:** , Affiliated Master Lessee,**]** or Guarantor greater personal liability under the Loan Documents than that set forth in the related commitment letter between Borrower and Lender; or

#### materially changing the rights and obligations of Borrower **[INSERT AS APPLICABLE:** , Affiliated Master Lessee,**]** or Guarantor under the commitment letter.

### Financing Statements; Record Searches.

#### Borrower shall pay all costs and expenses associated with:

##### any filing or recording of any financing statements, including all continuation statements, termination statements, and amendments or any other filings related to security interests in or liens on collateral; and

##### any record searches for financing statements that Lender may require.

#### Borrower hereby authorizes Lender (and represents and warrants that the Master Lease authorizes Borrower) to file any financing statements, continuation statements, termination statements, and amendments (including an “all assets” or “all personal property” collateral description or words of similar import) in form and substance as Lender may require in order to protect and preserve Lender’s lien priority and security interest in the Mortgaged Property (and to the extent Lender has filed any such financing statements, continuation statements, or amendments prior to the Effective Date, such filings by Lender are hereby authorized and ratified by Borrower, and are permitted under the terms of the Master Lease).

### Loan Document Taxes.

Borrower shall pay, on demand, any transfer taxes, documentary taxes, assessments, or charges made by any Governmental Authority in connection with the execution, delivery, recordation, filing, registration, perfection, or enforcement of any of the Loan Documents, the Master Lease Documents or the Mortgage Loan.

# - PROPERTY USE, PRESERVATION, AND MAINTENANCE

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 6.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Compliance with Law; Permits and Licenses.

#### To Borrower’s knowledge, all improvements to the Land and the use of the Mortgaged Property comply with all applicable laws, ordinances, statutes, rules, and regulations, including all applicable statutes, rules, and regulations pertaining to requirements for equal opportunity, anti-discrimination, fair housing (including all applicable source of income laws, ordinances, statutes, rules and regulations), and rent control, and Borrower has no knowledge of any action or proceeding (or threatened action or proceeding) regarding noncompliance or nonconformity with any of the foregoing.

#### To Borrower’s knowledge, there is no evidence of any illegal activities on the Mortgaged Property.

#### To Borrower’s knowledge, no permits or approvals from any Governmental Authority, other than those previously obtained and furnished to Lender, are necessary for the commencement and completion of the Repairs or Replacements, as applicable, other than those permits or approvals which will be timely obtained in the ordinary course of business.

#### All required permits, licenses, and certificates to comply with all zoning and land use statutes, laws, ordinances, rules, and regulations, and all applicable health, fire, safety, and building codes, and for the lawful use and operation of the Mortgaged Property, including certificates of occupancy, apartment licenses, or the equivalent, have been obtained and are in full force and effect.

#### No portion of the Mortgaged Property has been purchased with the proceeds of any illegal activity.

#### All required rights, permissions, consents, and express waivers from each tenant necessary to comply with all applicable privacy laws, to provide such tenant’s personal data (including similar terms under applicable law) to Lender, sufficient to permit Lender to lawfully use and process such personal data for the purposes of servicing, enforcement, evaluation, reporting, auditing, loan selling or purchasing, securitization, compliance and risk analysis and assessments, and any other purpose identified in the Lender’s privacy notice have been obtained and are in full force and effect.

### Property Characteristics.

#### The Mortgaged Property contains at least:

##### the Property Square Footage;

##### the Total Parking Spaces; and

##### the Total Residential Units.

#### No part of the Land is included or assessed under or as part of another tax lot or parcel, and no part of any other property is included or assessed under or as part of the tax lot or parcels for the Land.

### Property Ownership.

The entire Mortgaged Property is owned by or leased to Borrower or Master Lessee.

### Condition of the Mortgaged Property.

#### Borrower has not made any claims, and to Borrower’s knowledge, no claims have been made, against any contractor, engineer, architect, or other party with respect to the construction or condition of the Mortgaged Property or the existence of any structural or other material defect therein; and

#### neither the Land nor the Improvements have sustained any damage other than damage which has been fully repaired, or is fully insured and is being repaired in the ordinary course of business.

### Personal Property.

All Personal Property and all of the Personalty (as defined in the Security Instrument) that is material to and is used in connection with the management, ownership, and operation of the Mortgaged Property is:

#### owned by Borrower (or, to the extent disclosed on the Exceptions to Representations and Warranties Schedule, leased by Borrower, other than as lessor pursuant to the Master Lease); or

#### as applicable, leased by Master Lessee pursuant to the Master Lease (except as disclosed on the Exceptions to Representations and Warranties Schedule).

### Master Lease Fees.

Notwithstanding anything contained herein to the contrary, Borrower represents and warrants that there are no fees due and payable to the Master Lessee in connection with the operation and management of the Mortgaged Property.

## Covenants.

### Use of Property.

From and after the Effective Date, Borrower shall not, unless required by applicable law or Governmental Authority:

#### change the use of all or any part of the Mortgaged Property;

#### convert any individual dwelling units or common areas to commercial use, or convert any common area or commercial use to individual dwelling units;

#### initiate or acquiesce in a change in the zoning classification of the Land;

#### establish any condominium or cooperative regime with respect to the Mortgaged Property;

#### subdivide the Land; or

#### suffer, permit, or initiate the joint assessment of the Mortgaged Property with any other real property constituting a tax lot separate from the Mortgaged Property which could cause the part of the Land to be included or assessed under or as part of another tax lot or parcel, or any part of any other property to be included or assessed under or as part of the tax lot or parcels for the Land.

### Property Maintenance.

Borrower shall:

#### pay the expenses of operating, managing, maintaining, and repairing the Mortgaged Property (including insurance premiums, utilities, Repairs, and Replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added;

#### keep the Mortgaged Property in good repair and marketable condition (ordinary wear and tear excepted) (including the replacement of Personalty and Fixtures with items of equal or better function and quality unless such items are no longer required in connection with operation of the Mortgaged Property) and subject to Section 9.03(b)(3) and Section 10.03(d) restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition or condition immediately prior to the damage (if improved after the Effective Date), whether or not any insurance proceeds received upon an event of loss or any amounts received in connection with a Condemnation Action are available to cover any costs of such restoration or repair;

#### commence all Required Repairs, Additional Lender Repairs, and Additional Lender Replacements as follows:

##### with respect to any Required Repairs, promptly following the Effective Date (subject to Force Majeure, if applicable), in accordance with the timelines set forth on the Required Repair Schedule, or if no timelines are provided, as soon as practical following the Effective Date;

##### with respect to Additional Lender Repairs, in the event that Lender determines that Additional Lender Repairs are necessary from time to time or pursuant to Section 6.03(c), promptly following Lender’s written notice of such Additional Lender Repairs (subject to Force Majeure, if applicable), commence any such Additional Lender Repairs in accordance with Lender’s timelines, or if no timelines are provided, as soon as practical; and

##### with respect to Additional Lender Replacements, in the event that Lender determines that Additional Lender Replacements are necessary from time to time or pursuant to Section 6.03(c), promptly following Lender’s written notice of such Additional Lender Replacements (subject to Force Majeure, if applicable), commence any such Additional Lender Replacements in accordance with Lender’s timelines, or if no timelines are provided, as soon as practical;

#### make, construct, install, diligently perform, and complete all Replacements, Repairs, Restoration, and any other work permitted under the Loan Documents:

##### in a good and workmanlike manner as soon as practicable following the commencement thereof, free and clear of any Liens, including mechanics’ or materialmen’s liens and encumbrances (except Permitted Encumbrances and mechanics’ or materialmen’s liens which attach automatically under the laws of any Governmental Authority upon the commencement of any work upon, or delivery of any materials to, the Mortgaged Property and for which Borrower is not delinquent in the payment for any such work or materials);

##### in accordance with all applicable laws, ordinances, rules, and regulations of any Governmental Authority, including applicable building codes, special use permits, and environmental regulations;

##### in accordance with all applicable insurance and bonding requirements; and

##### within all timeframes required by Lender, and Borrower acknowledges that it shall be an Event of Default if Borrower abandons or ceases work on any Repair at any time prior to the completion of the Repairs for a period of longer than twenty (20) days (except when Force Majeure exists and Borrower is diligently pursuing the reinstitution of such work, provided, however, any such abandonment or cessation shall not in any event allow the Repair to be completed after the Completion Period, subject to Force Majeure);

#### subject to the terms of Section 6.03(a), provide for professional operation and management of the Mortgaged Property by a residential rental property manager satisfactory to Lender under a contract approved by Lender in writing;

#### give written notice to Lender of, and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender’s security for the Mortgage Loan, or Lender’s rights under this Loan Agreement; and

#### upon Lender’s written request, submit to Lender any contracts or work orders described in Section 13.02(b).

### Property Preservation.

Borrower shall:

#### not commit waste or abandon or (ordinary wear and tear excepted) permit impairment or deterioration of the Mortgaged Property;

#### not (or otherwise permit any other Person to) demolish, make any change in the unit mix, otherwise alter the Mortgaged Property or any part of the Mortgaged Property, or remove any Personalty or Fixtures from the Mortgaged Property, except for: alterations required in connection with Repairs, Replacements, or Restoration; or the replacement of tangible Personalty or Fixtures, provided such Personalty or Fixtures are replaced with items of equal or better function and quality unless such items are no longer required in connection with operation of the Mortgaged Property, and such replacement does not result in any disruption in occupancy (other than in connection with the routine re-leasing of units);

#### not engage in or knowingly permit, and shall take appropriate measures to prevent and abate or cease and desist, any illegal activities at the Mortgaged Property that could endanger tenants or visitors, result in damage to the Mortgaged Property, result in forfeiture of the Land or otherwise materially impair the lien created by the Security Instrument or Lender’s interest in the Mortgaged Property;

#### not permit any condition to exist on the Mortgaged Property that would invalidate any part of any insurance coverage required by this Loan Agreement; or

#### not subject the Mortgaged Property to any voluntary, elective, or non-compulsory tax lien or assessment (or opt in to any voluntary, elective, or non-compulsory special tax district or similar regime).

### Property Inspections.

Borrower shall:

#### permit Lender, its agents, representatives, and designees to enter upon and inspect the Mortgaged Property (including in connection with any Replacement, Repair, or Restoration, to conduct any Environmental Inspection pursuant to the Environmental Indemnity Agreement), and shall cooperate and provide access to all areas of the Mortgaged Property (subject to the rights of tenants under the Leases, other than the Master Lease):

##### during normal business hours;

##### at such other reasonable time upon reasonable notice of not less than one (1) Business Day;

##### at any time when exigent circumstances exist; or

##### at any time after an Event of Default has occurred and is continuing; and

#### pay for reasonable costs or expenses incurred by Lender or its agents in connection with any such inspections.

### Compliance with Laws.

Borrower shall:

#### comply with all laws, ordinances, statutes, rules, and regulations of any Governmental Authority and all recorded lawful covenants and agreements relating to or affecting the Mortgaged Property, including all laws, ordinances, statutes, rules and regulations, and covenants pertaining to construction of improvements on the Land, fair housing (including all applicable source of income laws, ordinances, statutes, rules and regulations), and requirements for equal opportunity, anti-discrimination, and Leases;

#### procure and maintain all required permits, licenses, charters, registrations, and certificates necessary to comply with all zoning and land use statutes, laws, ordinances, rules and regulations, and all applicable health, fire, safety, and building codes and for the lawful use and operation of the Mortgaged Property, including certificates of occupancy, apartment licenses, or the equivalent;

#### comply with all applicable laws that pertain to the maintenance and disposition of tenant security deposits;

#### at all times maintain records sufficient to demonstrate compliance with the provisions of this Section 6.02(e);

#### promptly after Borrower’s or Master Lessee’s receipt or notification thereof, provide Lender copies of any building code or zoning violation from any Governmental Authority with respect to the Mortgaged Property;

#### 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; and

#### procure and maintain all required rights, permissions, consents, and express waivers from each tenant necessary to comply with all applicable privacy laws, to provide such tenant’s personal data (including similar terms under applicable law) to Lender, sufficient to permit Lender to lawfully use and process such personal data for the purposes of servicing, enforcement, evaluation, reporting, auditing, loan selling or purchasing, securitization, compliance and risk analysis and assessments, and any other purpose identified in the Lender’s privacy notice as amended from time to time.

### All Representations and Covenants Deemed Borrower Responsibility.

##### Any act, action, term, condition, provision, requirement, representation, or covenant required to be made or performed, or prohibited from being made or performed, by Borrower under the Loan Documents including with respect to the use, management or operation of the Mortgaged Property, including any licensing, repair, reporting, or insurance requirements, and the organization, existence, good standing or other entity-level requirements, shall be interpreted as requiring Borrower either to perform such act or action directly or to cause Master Lessee, a property manager or other appropriate agent to perform such act or action. Any right or privilege assigned or delegated by Borrower or Master Lessee to any other Person shall be construed as being accompanied by each relevant obligation or restriction set forth in the Loan Documents or the Master Lease Documents, as applicable.

##### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** Whether in the Master Lease or otherwise, as applicable, Borrower shall set forth with specificity any obligation under the Loan Documents that is to be performed by another Person, and any prohibition or restriction in the Loan Documents that shall be observed by another Person. No such Person to which any obligation is delegated nor any restriction imposed shall be entitled to make a claim against Lender, or set forth as a defense against any action by Lender (and Borrower shall include a waiver of the same in the operative instrument of delegation) the fact that such operative instrument failed to include certain relevant terms and conditions of the Loan Documents, or any claim or defense that is not available to Borrower nor would be available to Borrower if Borrower were the day-to-day operator of the Mortgaged Property.**]**

##### (3) In each instance that Borrower makes, or in the future renews or is deemed to renew, a representation, warranty, or covenant in this Loan Agreement or the other Loan Documents regarding the condition, knowledge, acts, or omissions of Master Lessee or any Master Lessee Business Information, or the condition of the Mortgaged Property, Borrower does and shall do so with full knowledge, after due inquiry (including the due inquiry of and by Guarantor), of such information **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** , and Borrower shall, as appropriate (or at Lender’s request), obtain corresponding representations, warranties, and certifications from Master Lessee, in the Master Lease or otherwise, or from Guarantor**]**. Any reporting or compliance delay caused by Master Lessee or Guarantor shall not excuse Borrower’s timely performance of the terms of this Loan Agreement or the other Loan Documents. Borrower acknowledges and agrees that Borrower’s reliance upon incorrect or incomplete information received from Master Lessee or Guarantor and the reporting of the same to Lender, whether or not Borrower had actual knowledge that such information was incorrect or incomplete and whether or not Borrower is otherwise in violation of the terms of this Loan Agreement, shall not be (and none of Borrower, Master Lessee, Guarantor, nor Key Principal shall assert) a defense to Lender’s determination that an Event of Default has occurred or that Borrower (or Guarantor) has incurred personal liability as set forth in Article 3 of this Loan Agreement.

## Mortgage Loan Administration Matters Regarding the Property.

### Property Management.

From and after the Effective Date, each property manager and each property management agreement must be approved by Lender. If, in connection with the making of the Mortgage Loan, or at any later date, Lender waives in writing the requirement for a written contract for management of the Mortgaged Property, and Borrower or Master Lessee later elects to enter into a written contract or change the management of the Mortgaged Property, such new property manager or the property management agreement must be approved by Lender. As a condition to any approval by Lender, Lender may require that Borrower and such new property manager enter into a collateral assignment of the property management agreement on a form approved by Lender. For any such property management agreement entered into by Master Lessee rather than Borrower, Master Lessee shall assign its rights under such property management agreement to Borrower as security for Master Lessee’s obligations under the Master Lease Documents, and Borrower shall collaterally assign its rights under such assignment from Master Lessee to Lender as security for Borrower’s obligations under this Loan Agreement.

### Subordination of Fees to Affiliated Property Managers; Affiliated Master Lessee.

#### **[INSERT FOR SHARIA TRANSACTIONS**: If Borrower engages the property manager, any**][INSERT FOR NON-SHARIA TRANSACTIONS:** Any**]** property manager that is a Borrower Affiliate or an Affiliate of Master Lessee to whom fees are payable for the management of the Mortgaged Property must enter into an assignment of management agreement or other agreement with Lender, in a form approved by Lender, providing for subordination of those fees and such other provisions as Lender may require. **[INSERT FOR SHARIA TRANSACTIONS**: If Master Lessee engages the property manager, Master Lessee shall assign its rights under such property management agreement to Borrower as security for Master Lessee’s obligations under the Master Lease Documents on substantially the same terms as the initial agreement entered into by Borrower, Master Lessee, and property manager in connection with the closing of the Mortgage Loan.**]**

#### All fees due to an Affiliated Master Lessee in connection with the operation and management of the Mortgaged Property shall be subordinated in right to the prior payment in full of the Indebtedness.

### Property Condition Assessment.

If, in connection with any inspection of the Mortgaged Property, Lender determines that the condition of the Mortgaged Property has deteriorated (ordinary wear and tear excepted) since the Effective Date, Lender may obtain, at Borrower’s expense, a property condition assessment of the Mortgaged Property. Lender’s right to obtain a property condition assessment pursuant to this Section 6.03(c) shall be in addition to any other rights available to Lender under this Loan Agreement in connection with any such deterioration. Any such inspection or property condition assessment may result in Lender requiring Additional Lender Repairs or Additional Lender Replacements as further described in Section 13.02(a)(9).

#  - LEASES AND RENTS

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 7.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Prior Assignment of Rents.

#### Borrower has not executed any:

##### prior assignment of Rents (other than (x) an assignment of Rents securing prior indebtedness that has been paid off and discharged or will be paid off and discharged with the proceeds of the Mortgage Loan or (y) any such assignment pursuant to the Master Lease Documents); or

##### instrument which would prevent Lender from exercising its rights under this Loan Agreement, **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** , the SASA,**]** the Security Instrument, or any other Loan Document.

#### Master Lessee has not executed any prior assignment of Rents other than **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** the SASA**]** **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** the Tenant/Landlord Subordination and Assignment Agreement or another assignment to Borrower, which assignment is being collaterally assigned to Lender in connection with this Loan Agreement**]**.

### Prepaid Rents.

Borrower has not accepted, and does not expect to receive prepayment of, any Rents for more than two (2) months or one (1) month for the Master Leaseprior to the due dates of such Rents.

### Master Lease.

#### The Master Lease is in full force and effect and there is neither a default thereunder nor any condition that, with the passage of time or the giving of notice, or both, would constitute a default thereunder. No right or claim of rescission, offset, abatement, diminution, defense, or counterclaim has been asserted with respect to the Master Lease, and there is no existing condition that, with the passage of time or giving of notice, or both, would result in a right or claim of rescission, offset, abatement, diminution, defense, or counterclaim under the terms and provisions of the Master Lease. Borrower has performed and discharged all of the obligations on the part of Borrower to be performed and discharged pursuant to the terms set forth in the Master Lease.

#### The Master Lease has not been modified, amended or supplemented by either party thereto. The Master Lessee has not been released, in whole or in part, from any of its obligations under the Master Lease. There has been no prior sale, transfer, assignment, hypothecation, or pledge of the Master Lease (other than in connection with the Loan Documents) that is outstanding.

#### The Master Lease has an original term ending on **[INSERT FOR NON-SHARIA TRANSACTIONS:** or after the date ninety (90) days after**]** the Maturity Date. **[INSERT FOR SHARIA TRANSACTIONS:** Notwithstanding the foregoing, the Master Lease shall continue in effect until payment in full of the Indebtedness.**]** Absent Lender’s direction or as otherwise set forth in the Loan Documents, the Master Lessee cannot terminate the Master Lease for any reason prior to the payment in full of the Indebtedness.

#### There is no free rent, partial rent or rebate of rent required to be given by Borrower to Master Lessee under the Master Lease. The Master Lease does not permit Master Lessee to accept, and Master Lessee has not accepted, prepayment of Rents more than two (2) months in advance (and Borrower has not accepted prepayment of Rents more than one (1) month in advance with respect to the Master Lease). Each payment of Master Lease Basic Rent due under the Master Lease is sufficient to pay the Debt Service Amounts (including Monthly Debt Service Payments, Taxes, Impositions, and any Replacement Reserve Deposits) in full on or prior to the due date thereof (without giving effect to any applicable grace periods) currently and throughout the term of the Mortgage Loan. The Master Lease Basic Rent is payable without notice or demand, and without setoff, recoupment, abatement, or reduction.

#### Master Lessee has no right or option pursuant to the Master Lease Documents or otherwise to purchase all or any part of the Mortgaged Property, the leased premises or the building of which the leased premises are a part **[INSERT FOR SHARIA AND HTC TRANSACTIONS**: , other than any call option or put option set forth in the Master Lease Documents, the exercise of which call option or put option shall result in a full payoff of the Indebtedness **[INSERT FOR HTC TRANSACTIONS**: , other than the HTC Put/Call Transfer**]]**.

#### The Master Lease contains customary and enforceable provisions that render the rights and remedies of Borrower adequate for the enforcement and satisfaction of Borrower’s rights thereunder.

#### **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** Pursuant to the SASA, the**]** **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** The**]** Master Lease is subject and subordinate in all respects to the liens, terms, covenants and conditions of the Security Instrument and the other Loan Documents, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances heretofore made pursuant to the Note, this Loan Agreement, the Security Instrument and the other Loan Documents (including all sums advanced for the purposes of protecting or further securing the lien of the Security Instrument, curing defaults by Borrower under the Loan Documents, or for any other purposes expressly permitted by this Loan Agreement, the Security Instrument or the other Loan Documents, or constructing, renovating, repairing, furnishing, or equipping the Mortgaged Property).

#### Borrower represents and warrants that it is the express intent of Borrower and Master Lessee that the Master Lease constitute a lease under applicable real property laws and laws governing bankruptcy, insolvency, and creditors’ rights generally, and that the sole interest of Master Lessee in the Mortgaged Property is as a tenant under the Master Lease. The Master Lease is not intended to be deemed a guaranty.

## Covenants.

### Leases.

Borrower shall:

#### comply with and observe all landlord obligations under all Leases, including landlord’s obligations pertaining to the maintenance and disposition of any tenant security deposits or any other refundable fees;

#### surrender possession of the Mortgaged Property, including all Leases, and all security deposits and prepaid Rents, immediately upon appointment of a receiver or Lender’s entry upon and taking of possession and control of the Mortgaged Property, as applicable;

#### require that all Residential Leases have initial terms of not less than six (6) months and not more than twenty-four (24) months (however, if customary in the applicable market for properties comparable to the Mortgaged Property, Residential Leases with terms of less than six (6) months (but in no case less than one (1) month) may be permitted with Lender’s prior written consent), provided however, Short-Term Rentals (regardless of the duration of the term) shall not be permitted unless otherwise expressly approved by Lender in writing; and

#### promptly provide Lender a copy of any non-Residential Lease at the time such Lease is executed (subject to Lender’s consent rights for Material Commercial Leases in Section 7.02(b) and subject to Lender’s consent rights with respect to any Master Lessee or Master Lease Documents provided for herein) and, upon Lender’s written request, promptly provide Lender a copy of any Residential Lease then in effect.

### Commercial Leases.

#### With respect to Material Commercial Leases, Borrower shall not:

##### enter into any Material Commercial Lease except with the prior written consent of Lender; or

##### modify the terms of, extend, or terminate any Material Commercial Lease (including any Material Commercial Lease in existence on the Effective Date) without the prior written consent of Lender.

#### With respect to any non-Material Commercial Lease, Borrower shall not:

##### enter into any non-Material Commercial Lease that materially alters the use and type of operation of the premises subject to the Lease in effect as of the Effective Date or reduces the number or size of residential units at the Mortgaged Property; or

##### modify the terms of any non-Material Commercial Lease (including any non-Material Commercial Lease in existence on the Effective Date) in any way that materially alters the use and type of operation of the premises subject to such non-Material Commercial Lease in effect as of the Effective Date, reduces the number or size of residential units at the Mortgaged Property, or results in such non-Material CommercialLease being deemed a Material Commercial Lease.

#### With respect to any Material Commercial Lease or non-Material Commercial Lease, Borrower shall cause the applicable tenant to provide within ten (10) days after a request by Borrower, a certificate of estoppel, **or if not provided by tenant within such ten (10) day period, Borrower shall provide** such certificate of estoppel certifying:

##### that such Material Commercial Lease or non-Material Commercial Lease is unmodified and in full force and effect (or if there have been modifications, that such Material Commercial Lease or non-Material Commercial Lease is in full force and effect as modified and stating the modifications);

##### the term of the Lease including any extensions thereto;

##### the dates to which the Rent and any other charges hereunder have been paid by tenant;

##### the amount of any security deposit delivered to Borrower as landlord;

##### whether or not Borrower is in default (or whether any event or condition exists which, with the passage of time, would constitute an event of default) under such Lease;

##### the address to which notices to tenant should be sent; and

##### any other information as may be reasonably required by Lender.

### Payment of Rents.

Borrower shall:

#### pay to Lender upon demand all Rents after an Event of Default has occurred and is continuing;

#### cooperate with Lender’s efforts in connection with the assignment of Rents set forth in the Security Instrument and the **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** SASA**] [INSERT FOR SHARIA AND HTC TRANSACTIONS:** enforcement of the assignment of rents from Master Lessee**]**; and

#### not accept Rent under any Lease (whether a Residential Lease or non-Residential Lease) for more than two (2) months or one (1) month for the Master Lease in advance.

### Assignment of Rents.

Borrower shall not:

#### perform any acts or execute any instrument that would prevent Lender from exercising its rights under the assignment of Rents granted in the Security Instrument **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** , the SASA,**]** or in any other Loan Document; or

#### interfere with Lender’s collection of such Rents.

### Further Assignments of Leases and Rents.

Borrower shall execute and deliver any further assignments of Leases and Rents as Lender may reasonably require, and shall require Master Lessee to execute and deliver any corresponding assignments in support thereof.

### Options to Purchase by Tenants.

No Lease (whether a Residential Lease or a non-Residential Lease) shall contain an option to purchase, right of first refusal to purchase, or right of first offer to purchase, except **[INSERT FOR SHARIA TRANSACTIONS:** as set forth in the Master Lease Documents, the exercise of which shall result in a full payoff of the Indebtedness**]** **[INSERT FOR HTC TRANSACTIONS**: for the HTC Put/Call Transfer**]**, and as otherwise required by applicable law.

### Special Covenants Regarding Master Lease Documents.

* + - 1. Master Lease.

##### Borrower shall:

##### at all times fully perform, observe, and comply with all terms, covenants, and conditions of the Master Lease to be performed, observed, or complied with by Borrower as lessor under the Master Lease and do all things necessary to preserve and to keep unimpaired its rights thereunder;

##### deliver to Lender, within five (5) days after Borrower’s receipt, a true and correct copy of each written notice, demand, complaint, or request from Master Lessee under, or with respect to, the Master Lease;

##### simultaneously deliver to Lender a true and correct copy of each written notice, demand, complaint, or request that Borrower sends to Master Lessee under, or with respect to, the Master Lease;

##### to the extent not otherwise covered in Article 8 of this Loan Agreement, upon written request from Lender, deliver to Lender a copy of all business plans received by Borrower and any other information reasonably requested by Lender;

##### enforce the terms, covenants and conditions contained in the Master Lease; and

##### provide Master Lessee with written notice of any changes to Monthly Debt Service Payments, Imposition Deposits, Monthly Replacement Reserve Deposits, or any other amounts due under the Loan Documents.

##### Borrower shall not:

##### modify, amend, supplement, or restate the Master Lease either orally or in writing;

##### waive any of Borrower’s rights or fail to diligently pursue Borrower’s remedies under the Master Lease; or

##### violate the provisions of Section 11.02(c).

If, pursuant to the Master Lease, Master Lessee requests the consent of Borrower (in its capacity as lessor under the Master Lease) or Borrower’s designee to any matter as to which, pursuant to the Master Lease, Borrower has discretion as to whether or not to grant its consent, a waiver of any covenant or obligation of Master Lessee under the Master Lease, or a modification of the terms of the Master Lease (any of the foregoing, a “**Master Lease Request**”), Borrower shall give Lender prompt written notice of such Master Lease Request (together with such supporting information as may reasonably be required to consider such Master Lease Request, and such other information as Lender may reasonably request). Borrower shall not approve or consent to any Master Lease Request unless Lender has approved and consented in writing to such Master Lease Request.

**[INSERT FOR HTC TRANSACTIONS**: Notwithstanding anything herein to the contrary, if an HTC Put/Call Transfer in Master Lessee occurs (as described in Section 11.03(h)), Borrower shall be allowed to terminate the Master Lease upon the completion of the HTC Put/Call Transfer. In such event, Borrower shall provide Lender with documents necessary to terminate the Master Lease, and shall provide Lender with a date down title endorsement reflecting the termination of the memorandum of Master Lease currently recorded against the Mortgaged Property. Borrower shall provide the foregoing documents to Lender concurrently with any documentation required under Section 11.03(h).**]**

##### The Master Lease shall:

##### **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS** pursuant to the SASA,**]** be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Security Instrument and the other Loan Documents, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances which may hereafter be made pursuant to the Note, this Loan Agreement, the Security Instrument and the other Loan Documents (including all sums advanced for the purposes of protecting or further securing the lien of the Security Instrument, curing defaults by Borrower under the Loan Documents, or for any other purposes expressly permitted by this Loan Agreement, the Security Instrument or the other Loan Documents, or constructing, renovating, repairing, furnishing, fixturing, or equipping the Mortgaged Property); and

##### provide that, in the event it shall be determined that the Master Lease is not a lease under applicable real property laws or under laws governing bankruptcy, insolvency, and creditors’ rights generally, and that the interest of Master Lessee in the Mortgaged Property is other than that of tenant under the Master Lease, then the Master Lessee’s interest in the Mortgaged Property, however characterized, shall continue to be subject and subordinate to the lien, terms, and conditions of the Security Instrument, and Borrower’s fee interest in the Mortgaged Property, on all the same terms and conditions as contained in the Master Lease as of the Effective Date.

##### The Master Lease shall provide that Borrower shall continue to have complete access throughout the Loan Term to the organizational, financial, and operational information and documentation of Master Lessee in every respect as it relates to the Mortgage Loan, the Mortgaged Property, and the Master Lease Documents (collectively, the “**Master Lessee Business Information**”). Borrower shall continue to be fully informed regarding the Master Lessee Business Information to the same extent as if Borrower were the day-to-day operator of the Mortgaged Property and the business activities thereon.

* + - 1. Master Lease Documents (other than the Master Lease).

##### Borrower shall not allow any (other than with respect to the Master Lease, which is addressed above):

##### modification, amendment, supplement, or restatement any Master Lease Document;

##### termination of any Master Lease Document;

##### waiver of a default under any Master Lease Document;

##### assignment of its rights or interests under any Master Lease Document; or

##### Transfer of any Master Lease Document.

##### Within five (5) days after Borrower receives notice, Borrower shall give Lender written notice (along with a copy of any notice or information received by Borrower) that either Borrower or Master Lessee is in default under any Master Lease Document, or Master Lessee desires to amend, modify, surrender, or terminate any Master Lease Document.

##### After Borrower receives notice (or otherwise has actual knowledge) of an Event of Default, it will not make any payment of fees (or other amounts) under or pursuant to the Master Lease Documents without Lender’s prior written consent.

* + - 1. Master Lease Estoppel.

##### With respect to any Master Lease, Borrower shall cause Master Lessee to provide as of the Effective Date (and, after the Effective Date, within ten (10) days after a request by Borrower), a Master Lessee Estoppel Certificate, **or if not provided by Master Lessee within such ten (10) day period, Borrower shall provide** a certificate of estoppel (and the Master Lease shall so empower Borrower as Master Lessee’s attorney-in-fact) substantially in the form of the Master Lessee Estoppel Certificate.

* + - 1. Master Lease Structure Indemnification. [INSERT FOR SHARIA AND HTC TRANSACTIONS]

##### Lender’s agreement to permit Borrower to lease the Mortgaged Property pursuant to the Master Lease is solely as an accommodation to Borrower and Master Lessee and is at their request. In consideration of Lender’s consent to the Master Lease Lender shall not incur liability to Borrower, Master Lessee, Key Principal or Guarantor as a result thereof, and  Borrower hereby indemnifies Lender and holds Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs or expenses, including litigation costs and reasonable attorneys’ fees arising from or incurred in connection with Master Lessee handling all aspects of the operation of the Mortgaged Property pursuant to the Master Lease and matters related to the Mortgage Loan arising from the Master Lease, including reliance by Lender on any request or instruction from Master Lessee or any other action taken by Lender with respect to this Section 7.02(g).

## Mortgage Loan Administration Regarding Leases and Rents.

### Material Commercial Lease Requirements.

Each Material Commercial Lease, including any renewal or extension of any Material Commercial Lease in existence as of the Effective Date, shall provide, directly or pursuant to a subordination, non-disturbance and attornment agreement approved by Lender, that:

#### the tenant shall, upon written notice from Lender after the occurrence of an Event of Default, pay all Rents payable under such Lease to Lender;

#### such Lease and all rights of the tenant thereunder are expressly subordinate to the lien of the Security Instrument;

#### the tenant shall attorn to Lender and any purchaser at a Foreclosure Event (such attornment to be self-executing and effective upon acquisition of title to the Mortgaged Property by any purchaser at a Foreclosure Event or by Lender in any manner);

#### the tenant agrees to execute such further evidences of attornment as Lender or any purchaser at a Foreclosure Event may from time to time request; and

#### such Lease shall not terminate as a result of a Foreclosure Event unless Lender or any other purchaser at such Foreclosure Event affirmatively elects to terminate such Lease pursuant to the terms of the subordination, non-disturbance and attornment agreement.

### Residential Lease Form.

All Residential Leases entered into from and after the Effective Date shall be on forms substantially in the form approved by Lender. Any Lease entered into by Master Lessee will be subject and subordinate to the Master Lease and will not relieve the Master Lessee of its obligations under the Master Lease.

### Master Lease Structure Consideration.

##### The agreements set forth in this Loan Agreement constitute a material portion of the consideration for Lender agreeing to make the Mortgage Loan and permit the Master Lease structure described in the Master Lease Documents.

#  - BOOKS AND RECORDS; FINANCIAL REPORTING

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 8.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Financial Information.

All financial statements and data, including statements of cash flow and income and operating expenses, that have been delivered to Lender in respect of the Mortgaged Property:

#### are true, complete, and correct in all material respects; and

#### accurately represent the financial condition of the Mortgaged Property as of such date.

### No Change in Facts or Circumstances.

All information in the Loan Application and in all financial statements, rent rolls, reports, certificates, and other documents submitted in connection with the Loan Application are complete and accurate in all material respects. There has been no material adverse change in any fact or circumstance that would make any such information incomplete or inaccurate.

## Covenants.

### Obligation to Maintain Accurate Books and Records.

Borrower shall keep and maintain at all times at the Mortgaged Property, the property management agent’s offices, Borrower’s General Business Address, or Master Lessee’s General Business Address, as applicable, and, upon Lender’s written request, shall make available to Lender:

#### complete and accurate books of account and records (including copies of supporting bills and invoices) adequate to reflect correctly the operation of the Mortgaged Property; and

#### copies of all written contracts, Leases, and other instruments that affect Borrower, Master Lessee, or the Mortgaged Property.

### Items to Furnish to Lender.

Borrower shall furnish to Lender the following, which shall be deemed certified by Borrower, as true, complete, and accurate, in all material respects as of the time of delivery and binding upon Borrower, Master Lessee, or Guarantor, as applicable, and in such form and with such detail as Lender reasonably requires:

#### within forty-five (45) days after the end of each first, second, and third calendar quarter, a statement of income and expenses for Borrower and Master Lessee **[INSERT FOR NON-AFFILIATED MASTER LESSEE TRANSACTIONS ONLY:** (in connection with the operation of the Mortgaged Property)**]** on a year-to-date basis as of the end of each calendar quarter;

#### within one hundred twenty (120) days after the end of each calendar year:

##### for any Borrower and Master Lessee **[INSERT FOR NON-AFFILIATED MASTER LESSEE TRANSACTIONS ONLY:** (in connection with the operation of the Mortgaged Property)**]** that is an entity, a statement of income and expenses and a statement of cash flows for such calendar year;

##### for any Borrower and Master Lessee that is an individual or a trust established for estate-planning purposes, a personal financial statement for such calendar year;

##### when requested in writing by Lender, balance sheet(s) showing all assets and liabilities of Borrower and Master Lessee **[INSERT FOR NON-AFFILIATED MASTER LESSEE TRANSACTIONS ONLY:** (in connection with the operation of the Mortgaged Property)**]** and a statement of all contingent liabilities as of the end of such calendar year;

##### if an energy consumption metric for the Mortgaged Property is required to be reported to any Governmental Authority, the Fannie Mae Energy Performance Metrics report, as generated by ENERGY STAR® Portfolio Manager, for the Mortgaged Property for such calendar year, which report must include the ENERGY STAR score, the Source Energy Use Intensity (EUI), the month and year ending period for such ENERGY STAR score and such Source Energy Use Intensity, and the ENERGY STAR Portfolio Manager Property Identification Number; provided that, if the Governmental Authority does not require the use of ENERGY STAR Portfolio Manager for the reporting of the energy consumption metric and Borrower does not use ENERGY STAR Portfolio Manager, then Borrower shall furnish to Lender the Source Energy Use Intensity for the Mortgaged Property for such calendar year;

##### a written certification ratifying and affirming that:

###### **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** neither Borrower nor Master Lessee has**] [INSERT FOR ALL OTHER TRANSACTIONS:** Borrower has not**]** taken any action in violation of Section 4.02(d) regarding its single asset status;

###### neither Borrower nor Master Lessee has received any notice of any building code violation, or if Borrower, or Master Lessee, has received such notice, evidence of remediation;

###### neither Borrower nor Master Lessee has made any application for rezoning or received any notice that the Mortgaged Property has been or is being rezoned; and

###### neither Borrower nor Master Lessee has taken any action nor has any knowledge of any action that would violate the provisions of Section 11.02(b)(1)(F) regarding liens encumbering the Mortgaged Property;

##### an accounting of all security deposits held pursuant to all Leases, including the name of the institution (if any) and the names and identification numbers of the accounts (if any) in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for Lender to access information regarding such accounts;

##### written confirmation of:

##### any changes occurring since the Effective Date (or that no such changes have occurred since the Effective Date) in the direct owners of Borrower, the indirect owners (and any non-member managers) of Borrower that Control Borrower (excluding any Publicly-Held Corporations or Publicly-Held Trusts), or the indirect owners of Borrower that hold twenty-five percent (25%) or more of the ownership interests in Borrower (excluding any Publicly-Held Corporations or Publicly-Held Trusts), and their respective interests;

###### the names of all officers and directors of any Borrower which is a corporation, any corporation which is a general partner of any Borrower which is a partnership, or any corporation which is the managing member or non-member manager of any Borrower which is a limited liability company;

###### the names of all managers who are not members of any Borrower which is a limited liability company, any limited liability company which is a general partner of any Borrower which is a partnership, or any limited liability company which is the managing member or non-member manager of any Borrower which is a limited liability company;

###### any changes occurring since the Effective Date (or that no such changes have occurred since the Effective Date) in the direct owners of Affiliated Master Lessee, the indirect owners (and any non-member managers) of Affiliated Master Lessee that Control Affiliated Master Lessee (excluding any Publicly-Held Corporations or Publicly-Held Trusts), or the indirect owners of Affiliated Master Lessee that hold twenty-five percent (25%) or more of the ownership interests in Affiliated Master Lessee (excluding any Publicly-Held Corporations or Publicly-Held Trusts), and their respective interests;

###### the names of all officers and directors of any Affiliated Master Lessee that is a corporation, any corporation which is a general partner of any Affiliated Master Lessee which is a partnership, or any corporation which is the managing member or non-member manager of any Master Lessee which is a limited liability company; and

###### the names of all managers who are not members of any Master Lessee which is a limited liability company, any limited liability company which is a general partner of any Affiliated Master Lessee which is a partnership, or any limited liability company which is the managing member or non-member manager of any Affiliated Master Lessee which is a limited liability company; and

##### if not already provided pursuant to Section 8.02(b)(2)(A) above, a statement of income and expenses for Borrower’s and Master Lessee’s operation of the Mortgaged Property on a year-to-date basis as of the end of each calendar year;

#### within forty-five (45) days after the end of each first, second, and third calendar quarter and within one hundred twenty (120) days after the end of each calendar year, and at any other time upon Lender’s written request, a rent schedule for the Mortgaged Property showing the name of each tenant and for each tenant, the space occupied, the lease expiration date, the rent payable for the current month, the date through which rent has been paid, and any related information requested by Lender;

#### upon Lender’s written request, thereafter furnish to Lender within ten (10) Business Days after the end of each month, until the end of the Loan Term, complete and accurate rent schedule data for the Mortgaged Property;

#### within thirty (30) days after Lender’s written request (but, absent an Event of Default, no more frequently than once in any six (6) month period):

##### any item described in Section 8.02(b)(1) or Section 8.02(b)(2);

##### a property management or leasing report for the Mortgaged Property, showing the number of rental applications received from tenants or prospective tenants and deposits received from tenants or prospective tenants, and any other information requested by Lender for such period as requested by Lender;

##### a statement of income and expenses for Borrower’s or Master Lessee’s operation of the Mortgaged Property on a year-to-date basis as of the end of each month for such period as requested by Lender;

##### a statement of real estate owned directly or indirectly by Borrower, Affiliated Master Lessee and Guarantor for such period as requested by Lender;

##### for any Guarantor:

##### that is an entity, a statement of income and expenses and a statement of cash flows for the most recent available calendar year and any calendar quarters ending between the available year and the date of the request;

##### that is an individual, or a trust established for estate-planning purposes, a personal financial statement for the most recent available calendar year and any calendar quarters ending between the available year and the date of the request; and

##### balance sheet(s) showing all assets and liabilities of Guarantor and a statement of all contingent liabilities as of the end of the most recent available calendar year; and

##### a statement that identifies the following for such period as requested by Lender:

###### direct owners of Borrower and Affiliated Master Lessee and their respective interests;

###### indirect owners (and any non-member managers) of Borrower that Control Borrower (excluding any Publicly-Held Corporations or Publicly-Held Trusts) and their respective interests;

###### indirect owners of Borrower that hold twenty-five percent (25%) or more of the ownership interests in Borrower (excluding any Publicly-Held Corporations or Publicly-Held Trusts) and their respective interests;

###### indirect owners (and any non-member managers) of Affiliated Master Lessee that Control Affiliated Master Lessee (excluding any Publicly-Held Corporations or Publicly-Held Trusts) and their respective interests;

###### indirect owners of Affiliated Master Lessee that hold twenty-five percent (25%) or more of the ownership interests in Affiliated Master Lessee (excluding any Publicly-Held Corporations or Publicly-Held Trusts) and their respective interests;

###### to the extent that the Persons identified in (i)-(iii) above do not own, in the aggregate, at least fifty percent (50%) of the indirect ownership interests in Borrower, additional indirect owners of Borrower sufficient to show an aggregate ownership interest of at least fifty percent (50%); and

###### to the extent that the Persons identified in (i), (iv) and (v) above do not own, in the aggregate, at least fifty percent (50%) of the indirect ownership interests in Affiliated Master Lessee, additional indirect owners of Affiliated Master Lessee sufficient to show an aggregate ownership interest of at least fifty percent (50%).

### Audited Financials.

In the event Borrower, Master Lessee, or Guarantor receives or obtains any audited financial statements and such financial statements are required to be delivered to Lender under Section 8.02(b), Borrower shall deliver or cause to be delivered to Lender the audited versions of such financial statements.

### Delivery of Books and Records.

If an Event of Default has occurred and is continuing, Borrower shall deliver to Lender, upon written demand, all books and records relating to the Mortgaged Property or its operation.

## Mortgage Loan Administration Matters Regarding Books and Records and Financial Reporting.

### Lender’s Right to Obtain Audited Books and Records.

Lender may require that Borrower’s, Master Lessee’s (in connection with the operation of the Mortgaged Property), or Guarantor’s books and records be audited, at Borrower’s expense, by an independent certified public accountant selected by Lender in order to produce or audit any statements, schedules, and reports of Borrower, Master Lessee (in connection with the operation of the Mortgaged Property), Guarantor, or the Mortgaged Property required by Section 8.02, if:

#### Borrower or Guarantor fails to provide in a timely manner the statements, schedules, and reports required by Section 8.02 and, thereafter, Borrower or Guarantor fails to provide such statements, schedules, and reports within the cure period provided in Section 14.01(c);

#### the statements, schedules, and reports submitted to Lender pursuant to Section 8.02 are not full, complete, and accurate in all material respects as determined by Lender and, thereafter, Borrower or Guarantor fails to provide such statements, schedules, and reports within the cure period provided in Section 14.01(c); or

#### an Event of Default has occurred and is continuing.

Notwithstanding the foregoing, the ability of Lender to require the delivery of audited financial statements shall be limited to not more than once per Borrower’s fiscal year so long as no Event of Default has occurred during such fiscal year (or any event which, with the giving of written notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing). Borrower shall cooperate with Lender in order to satisfy the provisions of this Section 8.03(a). All related costs and expenses of Lender shall become due and payable by Borrower within ten (10) Business Days after demand therefor.

### Credit Reports; Credit Score.

No more often than once in any twelve (12) month period, Lender is authorized to obtain a credit report (if applicable) on each of Borrower, Affiliated Master Lessee, and Guarantor, the cost of which report shall be paid by Borrower. Lender is authorized to obtain a Credit Score (if applicable) for Borrower, Affiliated Master Lessee, or Guarantor at any time at Lender’s expense.

#  - INSURANCE

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 9.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Compliance with Insurance Requirements.

Borrower is in compliance with Lender’s insurance requirements (or has obtained a written waiver from Lender for any non-compliant coverage) and has timely paid all premiums on all required insurance policies.

### Property Condition.

#### The Mortgaged Property has not been damaged by fire, water, wind, or other cause of loss; or

#### if previously damaged, any previous damage to the Mortgaged Property has been repaired and the Mortgaged Property has been fully restored.

## Covenants.

### Insurance Requirements.

#### As required by Lender and applicable law, and as may be modified from time to time, Borrower shall:

##### keep the Improvements insured at all times against any hazards, which insurance shall include coverage against loss by fire and all other perils insured by the “special causes of loss” coverage form, general boiler and machinery coverage, business income coverage, and flood (if any of the Improvements are located in an area identified by the Federal Emergency Management Agency (or any successor) as an area having special flood hazards and to the extent flood insurance is available in that area), and may include sinkhole insurance, mine subsidence insurance, earthquake insurance, terrorism insurance, windstorm insurance and, if the Mortgaged Property does not conform to applicable building, zoning, or land use laws, ordinance and law coverage;

##### maintain at all times commercial general liability insurance, workmen’s compensation insurance, and such other liability, errors and omissions, and fidelity insurance coverage; and

##### maintain builder’s risk and public liability insurance, and other insurance in connection with completing the Repairs or Replacements, as applicable.

### Delivery of Policies, Renewals, Notices, and Proceeds.

Borrower shall:

#### cause all insurance policies (including any policies not otherwise required by Lender) which can be endorsed with standard non-contributing, non-reporting mortgagee clauses making loss payable to Lender (or Lender’s assigns) to be so endorsed;

#### promptly deliver to Lender a copy of all renewal and other notices received by Borrower with respect to the policies and all receipts for paid premiums;

#### deliver evidence, in form and content acceptable to Lender, that each required insurance policy under this Article 9 has been renewed not less than fifteen (15) days prior to the applicable expiration date, and (if such evidence is other than an original or duplicate original of a renewal policy) deliver the original or duplicate original of each renewal policy (or such other evidence of insurance as may be required by or acceptable to Lender) in form and content acceptable to Lender within ninety (90) days after the applicable expiration date of the original insurance policy;

#### provide immediate written notice to the insurance company and to Lender of any event of loss;

#### execute such further evidence of assignment of any insurance proceeds as Lender may require; and

#### provide immediate written notice to Lender of Borrower’s or Master Lessee’s receipt of any insurance proceeds under any insurance policy required by Section 9.02(a)(1) above and, if requested by Lender, deliver to Lender all of such proceeds received by Borrower or Master Lessee to be applied by Lender in accordance with this Article 9.

## Mortgage Loan Administration Matters Regarding Insurance

### Lender’s Ongoing Insurance Requirements.

Borrower acknowledges that Lender’s insurance requirements may change from time to time. All insurance policies and renewals of insurance policies required by this Loan Agreement shall be:

#### in the form and with the terms required by Lender;

#### in such amounts, with such maximum deductibles and for such periods required by Lender; and

#### issued by insurance companies satisfactory to Lender.

Borrower acknowledges that any failure OF BORROWER to comply with THE REQUIREMENTS SET FORTH IN Section 9.02(a) or Section 9.02(b)(3) above shall permit Lender to purchase the applicable insurance at Borrower’s cost. Such insurance may, but need not, protect Borrower’s interests. The coverage that Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Mortgaged Property. If Lender purchases insurance for the Mortgaged Property as permitted hereunder, Borrower will be responsible for the costs of that insurance, including interest at the Default Rate and any other charges Lender may impose in connection with the placement of the insurance until the effective date of the cancellation or the expiration of the insurance. The costs of the insurance shall be added to Borrower’s total outstanding balance or obligation and shall constitute additional Indebtedness. The costs of the insurance may be more than the cost of insurance Borrower may be able to obtain on its own. Borrower may later cancel any insurance purchased by Lender, but only after providing evidence that Borrower has obtained insurance as required by this Loan Agreement and the other Loan Documents.

### Application of Proceeds on Event of Loss.

#### Upon an event of loss, Lender may, at Lender’s option:

##### hold such proceeds in the Restoration Reserve Account to be applied to reimburse Borrower for the cost of Restoration in accordance with Article 13 and Lender’s then-current policies relating to the restoration of casualty damage on similar multifamily residential properties; or

##### apply such proceeds to the payment of the Indebtedness, whether or not then due; provided, however, Lender shall not apply insurance proceeds to the payment of the Indebtedness and shall permit Restoration pursuant to Section 9.03(b)(1)(A) if all of the following conditions are met:

###### no Event of Default has occurred and is continuing(or any event which, with the giving of written notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing);

###### Lender determines that the combination of insurance proceeds and amounts provided by Borrower will be sufficient funds to complete the Restoration;

###### Lender determines that the Net Cash Flow generated by the Mortgaged Property after completion of the Restoration will be sufficient to support Master Lessee’s Basic Rent and other financial obligations under the Master Lease, and a debt service coverage ratio not less than the debt service coverage ratio immediately prior to the event of loss, but in no event less than 1.0x (the debt service coverage ratio shall be calculated on a thirty (30) year amortizing basis (if applicable, on a *proforma* basis approved by Lender) in all events and shall include all operating costs and other expenses, Imposition Deposits, deposits to Collateral Accounts, and Mortgage Loan repayment obligations);

###### Lender determines that the Restoration will be completed before the earlier of one (1) year before the stated Maturity Date, or one (1) year after the date of the loss or casualty; and

###### Borrower provides Lender, upon written request, evidence of the availability during and after the Restoration of the insurance required to be maintained pursuant to this Loan Agreement.

#### Notwithstanding the foregoing, if any loss is estimated to be in an amount equal to or less than $75,000, Lender shall not exercise its rights and remedies as power-of-attorney herein and shall allow Borrower to make proof of loss, to adjust and compromise any claims under policies of property damage insurance, to appear in and prosecute any action arising from such policies of property damage insurance, and to collect and receive the proceeds of property damage insurance; provided that each of the following conditions shall be satisfied:

##### Borrower shall immediately notify Lender of the casualty giving rise to the claim;

##### no Event of Default has occurred and is continuing (or any event which, with the giving of written notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing);

##### the Restoration will be completed before the earlier of one (1) year before the stated Maturity Date, or one (1) year after the date of the loss or casualty;

##### Lender determines that the combination of insurance proceeds and amounts provided by Borrower will be sufficient funds to complete the Restoration;

##### all proceeds of property damage insurance shall be issued in the form of joint checks to Borrower and Lender;

##### all proceeds of property damage insurance shall be applied to the Restoration;

##### Borrower shall deliver to Lender evidence satisfactory to Lender of completion of the Restoration and obtainment of all lien releases;

##### Borrower shall have complied to Lender’s satisfaction with the foregoing requirements on any prior claims subject to this provision, if any; and

##### Lender shall have the right to inspect the Mortgaged Property (subject to the rights of tenants under the Leases, other than the Master Lease).

#### If Lender elects to apply insurance proceeds to the Indebtedness in accordance with the terms of this Loan Agreement, Borrower shall not be obligated to restore or repair the Mortgaged Property. Rather, Borrower shall restrict access to the damaged portion of the Mortgaged Property and, at its expense and regardless of whether such costs are covered by insurance, clean up any debris resulting from the casualty event, and, if required or otherwise permitted by Lender, demolish or raze any remaining part of the damaged Mortgaged Property to the extent necessary to keep and maintain the Mortgaged Property in a safe, habitable, and marketable condition. Nothing in this Section 9.03(b) shall affect any of Lender’s remedial rights against Borrower in connection with a breach by Borrower of any of its obligations under this Loan Agreement or under any Loan Document, including any failure to timely pay Monthly Debt Service Payments or maintain the insurance coverage(s) required by this Loan Agreement.

### Payment Obligations Unaffected.

The application of any insurance proceeds to the Indebtedness shall not extend or postpone the Maturity Date, or the due date or the full payment of any Monthly Debt Service Payment, Monthly Replacement Reserve Deposit, or any other installments referred to in this Loan Agreement or in any other Loan Document. Notwithstanding the foregoing, if Lender applies insurance proceeds to the Indebtedness in connection with a casualty of less than the entire Mortgaged Property, and after such application of proceeds the debt service coverage ratio (as determined by Lender) is less than 1.25x based on the then-applicable Monthly Debt Service Payment and the anticipated ongoing Net Cash Flow of the Mortgaged Property after such casualty event, then Lender may, at its discretion, permit an adjustment to the Monthly Debt Service Payments that become due and owing thereafter, based on Lender’s then-current underwriting requirements. In no event shall the preceding sentence obligate Lender to make any adjustment to the Monthly Debt Service Payments. **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** However, in the event that Lender elects to adjust the Monthly Debt Service Payments, Lender shall require a concomitant adjustment in the Master Lease Basic Rent.**]**

### Foreclosure Sale.

If the Mortgaged Property is transferred pursuant to a Foreclosure Event or Lender otherwise acquires title to the Mortgaged Property, Borrower acknowledges that Lender shall automatically succeed to all rights of Borrower in and to any insurance policies and unearned insurance premiums applicable to the Mortgaged Property and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such Foreclosure Event or such acquisition.

### Appointment of Lender as Attorney-In-Fact.

Borrower hereby authorizes and appoints Lender as attorney-in-fact pursuant to Section 14.03(c).

#  - CONDEMNATION

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 10.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Prior Condemnation Action.

No part of the Mortgaged Property has been taken in connection with a Condemnation Action.

### Pending Condemnation Actions.

No Condemnation Action is pending or, to Borrower’s knowledge, is threatened for the partial or total condemnation or taking of the Mortgaged Property.

## Covenants.

### Notice of Condemnation.

Borrower shall:

#### promptly notify Lender of any Condemnation Action of which Borrower has knowledge;

#### appear in and prosecute or defend, at its own cost and expense, any action or proceeding relating to any Condemnation Action, including any defense of Lender’s interest in the Mortgaged Property tendered to Borrower by Lender, unless otherwise directed by Lender in writing; and

#### execute such further evidence of assignment of any condemnation award in connection with a Condemnation Action as Lender may require.

### Condemnation Proceeds.

Borrower shall pay to Lender all awards or proceeds of a Condemnation Action promptly upon receipt.

## Mortgage Loan Administration Matters Regarding Condemnation.

### Application of Condemnation Awards.

Lender may apply any awards or proceeds of a Condemnation Action, after the deduction of Lender’s expenses incurred in the collection of such amounts, to:

#### the restoration or repair of the Mortgaged Property, if applicable;

#### the payment of the Indebtedness, with the balance, if any, paid to Borrower; or

#### Borrower.

### Payment Obligations Unaffected.

The application of any awards or proceeds of a Condemnation Action to the Indebtedness shall not extend or postpone the Maturity Date, or the due date or the full payment of any Monthly Debt Service Payment, Monthly Replacement Reserve Deposit, or any other installments referred to in this Loan Agreement or in any other Loan Document.

### Appointment of Lender as Attorney-In-Fact.

Borrower hereby authorizes and appoints Lender as attorney-in-fact pursuant to Section 14.03(c).

### Preservation of Mortgaged Property.

If a Condemnation Action results in or from damage to the Mortgaged Property and Lender elects to apply the proceeds or awards from such Condemnation Action to the Indebtedness in accordance with the terms of this Loan Agreement, Borrower shall not be obligated to restore or repair the Mortgaged Property. Rather, Borrower shall restrict access to any portion of the Mortgaged Property which has been damaged or destroyed in connection with such Condemnation Action and, at Borrower’s expense and regardless of whether such costs are covered by insurance, clean up any debris resulting in or from the Condemnation Action, and, if required by any Governmental Authority or otherwise permitted by Lender, demolish or raze any remaining part of the damaged Mortgaged Property to the extent necessary to keep and maintain the Mortgaged Property in a safe, habitable, and marketable condition. Nothing in this Section 10.03(d) shall affect any of Lender’s remedial rights against Borrower in connection with a breach by Borrower of any of its obligations under this Loan Agreement or under any Loan Document, including any failure to timely pay Monthly Debt Service Payments or maintain the insurance coverage(s) required by this Loan Agreement.

#  - LIENS, TRANSFERS, AND ASSUMPTIONS

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 11.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### No Labor or Materialmen’s Claims.

All parties furnishing labor and materials on behalf of Borrower or on behalf of Master Lessee with respect to the Mortgaged Property have been paid in full. There are no mechanics’ or materialmen’s liens (whether filed or unfiled) outstanding for work, labor, or materials (and no claims or work outstanding that under applicable law could give rise to any such mechanics’ or materialmen’s liens) affecting the Mortgaged Property, whether prior to, equal with, or subordinate to the lien of the Security Instrument.

### No Other Interests.

No Person:

#### other than Borrower has any possessory ownership or interest in the Mortgaged Property or right to occupy the same except under and pursuant to the provisions of the Master Lease and the other existing Leases, the material terms of all such Leases having been previously disclosed in writing to Lender; or

#### **[INSERT FOR SHARIA TRANSACTIONS:** other than Master Lessee pursuant to any call option in the Master Lease Documents (which will result in the full repayment of the Indebtedness)**]** **[INSERT FOR HTC TRANSACTIONS:** other than the HTC Put/Call Transfer**]** has an option, right of first refusal, or right of first offer (except as required by applicable law) to purchase the Mortgaged Property, or any interest in the Mortgaged Property.

## Covenants.

### Liens; Encumbrances.

Borrower shall not permit the grant, creation, or existence of any Lien, whether voluntary, involuntary, or by operation of law, on all or any portion of the Mortgaged Property (including any voluntary, elective, or non-compulsory tax lien or assessment pursuant to a voluntary, elective, or non-compulsory special tax district or similar regime) other than:

#### Permitted Encumbrances;

#### the creation of:

##### any tax lien, municipal lien, utility lien, mechanics’ lien, materialmen’s lien, or judgment lien against the Mortgaged Property if bonded off, released of record, or otherwise remedied to Lender’s satisfaction within sixty (60) days after the earlier of the date Borrower or Master Lessee has actual notice or constructive notice of the existence of such lien; or

##### any mechanics’ or materialmen’s liens which attach automatically under the laws of any Governmental Authority upon the commencement of any work upon, or delivery of any materials to, the Mortgaged Property and for which Borrower or Master Lessee is not delinquent in the payment for any such work or materials; and

#### the lien created by, or (in connection with Permitted Equipment Financing) permitted under, the Loan Documents.

### Transfers.

* + - 1. Mortgaged Property.

Borrower shall not Transfer, or cause or permit a Transfer of, all or any part of the Mortgaged Property (including any interest in the Mortgaged Property) other than:

##### a Transfer to which Lender has consented in writing;

##### Leases permitted pursuant to the Loan Documents, including the Master Lease between Borrower and Master Lessee and the subordination thereof to the terms, provisions, and lien of this Loan Agreement, the Security Instrument, and the other Loan Documents;

##### [reserved];

##### a Transfer of obsolete or worn out Personalty or Fixtures that are contemporaneously replaced by items of equal or better function and quality (unless such items are no longer required in connection with operation of the Mortgaged Property) which are free of Liens (other than those created by the Loan Documents);

##### the grant of an easement, servitude, or restrictive covenant to which Lender has consented, and Borrower has paid to Lender, upon demand, all costs and expenses incurred by Lender in connection with reviewing Borrower’s request (including reasonable attorneys’ fees and a $5,000 review fee, which shall be in lieu of any other Review Fee or Transfer Fee);

##### a lien permitted pursuant to Section 11.02(a) of this Loan Agreement; or

##### the conveyance of the Mortgaged Property following a Foreclosure Event.

* + - 1. Interests in Borrower, Affiliated Master Lessee, Key Principal, or Guarantor.

Other than a Transfer to which Lender has consented in writing, Borrower shall not Transfer, or cause or permit to be Transferred:

##### any direct or indirect ownership interest in Borrower, Affiliated Master Lessee, Key Principal, or Guarantor (if applicable) if such Transfer would cause a change in Control;

##### a direct or indirect Restricted Ownership Interest in Borrower, Affiliated Master Lessee, Key Principal, or Guarantor (if applicable);

##### fifty percent (50%) or more of Key Principal’s or Guarantor’s direct or indirect ownership interests in Borrower or Affiliated Master Lessee that existed on the Effective Date (individually or on an aggregate basis) **[INSERT FOR HTC TRANSACTIONS:** or fifty percent (50%) or more of Key Principal’s or Guarantor’s direct or indirect ownership interests in the Master Lessee that existed on the date of the HTC Put/Call Transfer after taking effect of the HTC Put/Call Transfer**]**;

##### any direct or indirect ownership interest in Borrower, Affiliated Master Lessee, Key Principal, or Guarantor (if applicable) if such Transfer would result in a violation of Section 4.02(b); or

##### the economic benefits or rights to cash flows attributable to any ownership interest in Borrower, Affiliated Master Lessee, Key Principal, or Guarantor (if applicable) separate from the Transfer of the underlying ownership interest if the Transfer of the underlying ownership interest is prohibited by this Loan Agreement.

Notwithstanding the foregoing, if a Publicly-Held Corporation or a Publicly-Held Trust Controls Borrower, Affiliated Master Lessee, Key Principal, or Guarantor, or owns a direct or indirect Restricted Ownership Interest in Borrower, Affiliated Master Lessee, Key Principal, or Guarantor, a Transfer of any ownership interest in such Publicly-Held Corporation or Publicly-Held Trust shall not be prohibited under this Loan Agreement as long as such Transfer does not result in a conversion of such Publicly-Held Corporation or Publicly-Held Trust to a privately held entity, and Borrower provides written notice to Lender not later than thirty (30) days thereafter of any such Transfer that results in any Person owning ten percent (10%) or more of the ownership interests in such Publicly-Held Corporation or Publicly-Held Trust.

* + - 1. Transfers of Non-Controlling Interests.

Transfers of direct or indirect limited partnership or non-managing member interests in Borrower or Affiliated Master Lessee that result in a Transfer of fifty percent (50%) or more of the limited partnership or non-managing membership interests shall be consented to by Lender if such Transfer satisfies the following conditions:

##### Key Principal or Guarantor (as applicable) Controls Borrower or Affiliated Master Lessee, as applicable, with the same rights and abilities as Key Principal or Guarantor (as applicable) Controls Borrower immediately prior to the date of such Transfer;

##### such Transfer does not violate the requirements of Section 11.02(b)(2)(C) or Section 11.02(b)(2)(D);

##### Borrower shall provide Lender not less than thirty (30) days prior written notice of the proposed Transfer and obtain Lender’s approval;

##### Borrower shall provide with its notice to Lender an organizational chart reflecting, and all organizational documents relevant to, the proposed Transfer;

##### Borrower shall provide with its notice to Lender a certification that no change of Control of Borrower, Affiliated Master Lessee, Key Principal, or Guarantor (as applicable) shall occur as a result of such Transfer;

##### if any Person will own twenty-five percent (25%) or more of the direct or indirect ownership interests in Borrower that did not own twenty-five percent (25%) or more before the Transfer, such Person shall not, as of the date of the Transfer, be a Prohibited Person;

##### Borrower shall pay to Lender:

##### concurrently with its notice to Lender, the Review Fee plus a transfer fee of $25,000, which shall be in lieu of any other Transfer Fee; and

##### upon demand, any out-of-pocket costs and expenses, including reasonable attorneys’ fees and expenses, incurred by Lender in connection with its review of the Transfer request; and

##### Borrower and Affiliated Master Lessee shall execute upon demand such documents or certifications as Lender reasonably requires in order to confirm the post-transfer ownership structure, compliance with the stated conditions, and any other relevant factual matter.

* + - 1. Name Change or Entity Conversion.

Lender shall consent to Borrower or Master Lessee changing its name, changing its jurisdiction of organization, or converting from one type of legal entity into another type of legal entity for any lawful purpose, provided that:

##### Lender receives written notice at least thirty (30) days prior to such change or conversion, which notice shall include organizational charts that reflect the structure of Borrower or Master Lessee, as applicable, both prior to and subsequent to such name change or entity conversion;

##### such Transfer is not otherwise prohibited under the provisions of Section 11.02(b)(2);

##### Borrower executes an amendment to this Loan Agreement and any other Loan Documents required by Lender documenting the name change or entity conversion and, if applicable, Master Lessee executes any amendment to the Master Lease Documents required by Lender;

##### Borrower agrees and acknowledges, at Borrower’s expense, that Borrower, or Master Lessee if applicable, will execute and record in the land records any instrument required by the Property Jurisdiction to be recorded to evidence such name change or entity conversion (or provide Lender with written confirmation from the title company (via electronic mail or letter) that no such instrument is required), Borrower, or Master Lessee if applicable, will execute any additional documents required by Lender, including the amendment to this Loan Agreement, and, if applicable, amendment to the Master Lease Documents, and, if applicable, allow such documents to be recorded or filed in the land records of the Property Jurisdiction, except in connection with a name change or entity conversion solely related to Master Lessee, Lender will obtain a “date down” endorsement to the Lender’s Title Policy (or obtain a new Title Policy if a “date down” endorsement is not available in the Property Jurisdiction), evidencing title to the Mortgaged Property being in the name of the successor entity and the Lien of the Security Instrument against the Mortgaged Property, and Lender will file any required UCC-3 financing statement and make any other filing deemed necessary to maintain the priority of its Liens on the Mortgaged Property; and

##### no later than ten (10) days subsequent to such name change or entity conversion, Borrower shall provide Lender the documentation filed with the appropriate office in Borrower’s or Master Lessee’s, as applicable, state of formation evidencing such name change or entity conversion, copies of the organizational documents of Borrower or Master Lessee, as applicable, including any amendments, filed with the appropriate office in Borrower’s or Master Lessee’s, as applicable, state of formation reflecting the post-conversion Borrower or Master Lessee, as applicable, name, form of organization, and structure, and if available, new certificates of good standing or valid formation for Borrower or Master Lessee, as applicable.

* + - 1. No Delaware Statutory Trust or Series LLC Conversion.

Notwithstanding any provisions herein to the contrary, no Borrower, Master Lessee, Guarantor, or Key Principal shall convert to a Delaware Statutory Trust or a series limited liability company.

* + - 1. Plans of Division.

Neither Borrower nor Affiliated Master Lessee shall Divide. Lender shall consent to a Division by Guarantor or Key Principal provided that:

##### Lender receives written notice at least thirty (30) days prior to the effective date of such Division, which notice shall include a certification acceptable to Lender that such Division is not otherwise prohibited under the provisions of Article 11, a copy of the plan of division, and organizational charts that reflect the organizational structure of Borrower, Affiliated Master Lessee, Guarantor, and Key Principal both prior to and subsequent to such Division;

##### no later than ten (10) days subsequent to such Division, Borrower shall provide Lender the certificate of division or such other documentation filed with the appropriate office evidencing such Division, copies of the organizational documents of Borrower (if amended), Affiliated Master Lessee (if amended), Guarantor, and Key Principal, including any amendments thereto, that reflect the post-Division organizational structure, and new certificates of good standing or valid formation for Borrower (if amended), Affiliated Master Lessee (if amended), Guarantor, and Key Principal; and

##### Borrower has paid to Lender, upon demand, all costs and expenses incurred by Lender in connection with reviewing Borrower’s request (including reasonable attorneys’ fees and a $25,000 review fee, which shall be in lieu of any other Review Fee or Transfer Fee).

### Master Lease.

Subject to the provisions of this Article 11, Borrower shall not:

#### Transfer its rights or interests in the Master Lease, or Transfer the responsibility for the operation of the Mortgaged Property, from Master Lessee to any other Person;

#### permit Affiliated Master Lessee to Transfer its interest in the Master Lease, or to Transfer the responsibility for the operation of the Mortgaged Property, from Master Lessee to any other Person;

#### surrender or accept a surrender of the Master Lease;

#### cancel or terminate the Master Lease **[INSERT FOR HTC TRANSACTIONS**: other than in connection with an HTC Put/Call Transfer pursuant to the terms of Section 7.02(g)(1)(B)**]**; or

#### permit a merger of Borrower’s fee interest estate in the Mortgaged Property with Affiliated Master Lessee’s leasehold interest in the Mortgaged Property.

Borrower agrees, and the Master Lease shall provide, that Lender shall have the right to terminate the Master Lease and remove any Master Lessee upon the occurrence and continuance of an Event of Default. **[INSERT FOR HTC TRANSACTIONS**: Notwithstanding anything in this Loan Agreement to the contrary, Lender acknowledges that its right to terminate the Master Lease is subject to Historic Investor’s cure right under Section 14.02(d), including any extension of the cure period afforded to Historic Investor under Section 14.02(d) of the Loan Agreement in connection with a Managing Member Removal under Section 11.03(i).**]**

### No Other Indebtedness.

Other than the Mortgage Loan, neither Borrower nor Affiliated Master Lessee shall incur or be obligated at any time with respect to any loan or other indebtedness (except Permitted Equipment Financing and trade payables as otherwise permitted in this Loan Agreement), including any indebtedness secured by a Lien on, or the cash flows from, the Mortgaged Property.

### No Mezzanine Financing or Preferred Equity.

Neither Borrower, any Affiliated Master Lessee nor any direct or indirect owner of Borrower or any Affiliated Master Lessee shall: incur any Mezzanine Debt other than Permitted Mezzanine Debt; issue any Preferred Equity other than Permitted Preferred Equity; or incur any similar indebtedness or issue any similar equity.

## Mortgage Loan Administration Matters Regarding Liens, Transfers, and Assumptions.

### Assumption of Mortgage Loan.

Lender shall consent to a Transfer of the Mortgaged Property to and an assumption of the Mortgage Loan by a new borrower if each of the following conditions is satisfied prior to the Transfer:

#### Borrower has submitted to Lender all information required by Lender to make the determination required by this Section 11.03(a);

#### no Event of Default has occurred and is continuing, and no event which, with the giving of written notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing;

#### Lender determines that:

##### the proposed new borrower, new key principal, and any other new guarantor fully satisfy all of Lender’s then-applicable borrower, master lessee, key principal, or guarantor eligibility, credit, management, and other loan underwriting standards, which shall include an analysis of the previous relationships between Lender and the proposed new borrower, new key principal, new guarantor, and any Person in Control of them, and the organization of the new borrower, new key principal, and new guarantor (if applicable), and the operating and financial performance of the Mortgaged Property, including physical condition and occupancy;

##### none of the proposed new borrower, new key principal, and any new guarantor, or any owners of the proposed new borrower, new key principal, and any new guarantor, are a Prohibited Person, and such Transfer would not result in a violation of the requirements of Section 11.02(b)(2)(D); and

##### none of the proposed new borrower, new key principal, and any new guarantor (if any of such are entities) shall have an organizational existence termination date that ends before the Maturity Date;

#### [reserved];

#### the proposed new borrower has:

##### executed an assumption agreement acceptable to Lender that, among other things, requires the proposed new borrower to assume and perform all obligations of Borrower (or any other transferor), and that may require that the new borrower comply with any provisions of any Loan Document or Master Lease Document which previously may have been waived by Lender for Borrower, subject to the terms of Section 11.03(g);

##### **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** unless the Master Lease is being terminated in connection with such Transfer, executed a new SASA acceptable to Lender;**]** **[INSERT FOR SHARIA AND HTC TRANSACTIONS:** executed a new “Tenant/Landlord Subordination and Assignment Agreement” acceptable to Lender;**]**

##### if required by Lender, delivered to the title company for filing and/or recording in all applicable jurisdictions, all applicable Loan Documents including the assumption agreement to correctly evidence the assumption and the confirmation, continuation, perfection, and priority of the Liens created hereunder and under the other Loan Documents; and

##### delivered to Lender a “date-down” endorsement to the Title Policy acceptable to Lender (or a new title insurance policy if a “date-down” endorsement is not available);

#### one or more individuals or entities acceptable to Lender as new guarantors have executed and delivered to Lender:

##### an assumption agreement acceptable to Lender that requires the new guarantor to assume and perform all obligations of Guarantor under any Guaranty given in connection with the Mortgage Loan; or

##### a substitute Non-Recourse Guaranty and other substitute guaranty in a form acceptable to Lender;

#### Lender has reviewed and approved the Transfer documents;

#### Lender has received the fees described in Section 11.03(g); and

#### with respect to any MBS trust that directly or indirectly holds the Mortgage Loan and issues MBS that are outstanding, the Transfer shall not result in an Adverse Tax Event.

### Transfers to Key Principal-Owned Affiliates or Guarantor-Owned Affiliates.

#### Except as otherwise covered in Section 11.03(b)(2) below, Transfers of direct or indirect ownership interests in Borrower or Affiliated Master Lessee to Key Principal or Guarantor, or to a transferee through which Key Principal or Guarantor (as applicable) Controls Borrower or Affiliated Master Lessee, with the same rights and abilities as Key Principal or Guarantor (as applicable) Controls Borrower or Affiliated Master Lessee, immediately prior to the date of such Transfer, shall be consented to by Lender if such Transfer satisfies the applicable requirements of Section 11.03(a), other than Section 11.03(a)(5).

#### Transfers of direct or indirect interests in Borrower or Affiliated Master Lessee held by a Key Principal or Guarantor to other Key Principals or Guarantors, as applicable, shall be consented to by Lender if such Transfer satisfies the following conditions:

##### the Transfer does not cause a change in the Control of Borrower or Affiliated Master Lessee; and

##### the transferor Key Principal or Guarantor maintains the same right and ability to Control Borrower and Affiliated Master Lessee as existed prior to the Transfer.

If the conditions set forth in this Section 11.03(b) are satisfied, the Transfer Fee shall be waived provided Borrower shall pay the Review Fee and out-of-pocket costs set forth in Section 11.03(g).

### Estate Planning.

Notwithstanding the provisions of Section 11.02(b)(2), so long as  the Transfer does not cause a change in the Control of Borrower or Affiliated Master Lessee, and  Key Principal and Guarantor, as applicable, maintain the same right and ability to Control Borrower and Affiliated Master Lessee as existed prior to the Transfer, Lender shall consent to Transfers of direct or indirect ownership interests in Borrower or Affiliated Master Lessee, and Transfers of direct or indirect ownership interests in an entity Key Principal or entity Guarantor to:

##### Immediate Family Members of such transferor each of whom must have obtained the legal age of majority;

##### United States domiciledtrusts established for the benefit of the transferor, or Immediate Family Members of the transferor; or

##### partnerships or limited liability companies of which the partners or members, respectively, are comprised entirely of such transferor and Immediate Family Members (each of whom must have obtained the legal age of majority) of such transferor, Immediate Family Members (each of whom must have obtained the legal age of majority) of such transferor, or United States domiciledtrusts established for the benefit of the transferor, or Immediate Family Members of the transferor.

If the conditions set forth in this Section 11.03(c) are satisfied, the Transfer Fee shall be waived provided Borrower shall pay the Review Fee and out-of-pocket costs set forth in Section 11.03(g).

### Termination or Revocation of Trust.

If any of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal is a trust, or if Control of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal is Transferred or if a Restricted Ownership Interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal would be Transferred due to the termination or revocation of a trust, the termination or revocation of such trust is an unpermitted Transfer; provided that the termination or revocation of the trust due to the death of an individual trustor shall not be considered an unpermitted Transfer so long as:

#### Lender is notified within thirty (30) days of the death; and

#### such Borrower, Affiliated Master Lessee, Guarantor, Key Principal, or other Person, as applicable, is replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 11.03(a) within ninety (90) days of the date of the death causing the termination or revocation.

If the conditions set forth in this Section 11.03(d) are satisfied, the Transfer Fee shall be waived; provided Borrower shall pay the Review Fee and out-of-pocket costs set forth in Section 11.03(g).

### Death of Key Principal or Guarantor; Transfer Due to Death.

#### If a Key Principal or Guarantor that is a natural person dies, or if Control of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal is Transferred, or if a Restricted Ownership Interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal would be Transferred, as a result of the death of a Person (except in the case of trusts which is addressed in Section 11.03(d)), Borrower must notify Lender in writing within ninety (90) days in the event of such death. Unless waived in writing by Lender, the deceased shall be replaced by an individual or entity within one hundred eighty (180) days, subject to Borrower’s satisfaction of the following conditions:

##### Borrower has submitted to Lender all information required by Lender to make the determination required by this Section 11.03(e);

##### Lender determines that, if applicable:

###### any proposed new key principal and any other new guarantor (or Person Controlling such new key principal or new guarantor) fully satisfies all of Lender’s then-applicable key principal or guarantor eligibility, credit, management, and other loan underwriting standards (including any standards with respect to previous relationships between Lender and the proposed new key principal and new guarantor (or Person Controlling such new key principal or new guarantor) and the organization of the new key principal and new guarantor);

###### none of any proposed new key principal or any new guarantor, or any owners of the proposed new key principal or any new guarantor, is a Prohibited Person, and such Transfer would not result in a violation of the requirements of Section 11.02(b)(2)(D); and

###### none of any proposed new key principal or any new guarantor (if any of such are entities) shall have an organizational existence termination date that ends before the Maturity Date; and

##### if applicable, one or more individuals or entities acceptable to Lender as new guarantors have executed and delivered to Lender:

###### an assumption agreement acceptable to Lender that requires the new guarantor to assume and perform all obligations of Guarantor under any Guaranty given in connection with the Mortgage Loan; or

###### a substitute Non-Recourse Guaranty and other substitute guaranty in a form acceptable to Lender.

#### In the event a replacement Key Principal, Guarantor, or other Person is required by Lender due to the death described in this Section 11.03(e), and such replacement has not occurred within such period, the period for replacement may be extended by Lender to a date not more than one (1) year from the date of such death; however, Lender may require as a condition to any such extension that:

##### the then-current property manager be replaced with a property manager reasonably acceptable to Lender (or if a property manager has not been previously engaged, a property manager reasonably acceptable to Lender be engaged); or

##### a lockbox agreement or similar cash management arrangement (with the property manager) reasonably acceptable to Lender during such extended replacement period be instituted.

If the conditions set forth in this Section 11.03(e) are satisfied, the Transfer Fee shall be waived, provided Borrower shall pay the Review Fee and out-of-pocket costs set forth in Section 11.03(g).

### Bankruptcy of Guarantor.

#### Upon the occurrence of any Guarantor Bankruptcy Event, unless waived in writing by Lender, the applicable Guarantor shall be replaced by an individual or entity within ninety (90) days of such Guarantor Bankruptcy Event, subject to Borrower’s satisfaction of the following conditions:

##### Borrower has submitted to Lender all information required by Lender to make the determination required by this Section 11.03(f);

##### Lender determines that:

###### the proposed new guarantor fully satisfies all of Lender’s then-applicable guarantor eligibility, credit, management, and other loan underwriting standards (including any standards with respect to previous relationships between Lender and the proposed new guarantor and the organization of the new guarantor (if applicable));

###### no new guarantor is a Prohibited Person, and such Transfer would not result in a violation of the requirements of Section 11.02(b)(2)(D); and

###### no new guarantor (if any of such are entities) shall have an organizational existence termination date that ends before the Maturity Date; and

##### one or more individuals or entities acceptable to Lender as new guarantors have executed and delivered to Lender:

###### an assumption agreement acceptable to Lender that requires the new guarantor to assume and perform all obligations of Guarantor under any Guaranty given in connection with the Mortgage Loan; or

###### a substitute Non-Recourse Guaranty and other substitute guaranty in a form acceptable to Lender.

#### In the event a replacement Guarantor is required by Lender due to the Guarantor Bankruptcy Event described in this Section 11.03(f), and such replacement has not occurred within such period, the period for replacement may be extended by Lender in its discretion; however, Lender may require as a condition to any such extension that:

##### the then-current property manager be replaced with a property manager reasonably acceptable to Lender (or if a property manager has not been previously engaged, a property manager reasonably acceptable to Lender be engaged); or

##### a lockbox agreement or similar cash management arrangement (with the property manager) reasonably acceptable to Lender during such extended replacement period be instituted.

If the conditions set forth in this Section 11.03(f) are satisfied, the Transfer Fee shall be waived, provided Borrower shall pay the Review Fee and out-of-pocket costs set forth in Section 11.03(g).

### Further Conditions to Transfers and Assumption.

#### In connection with any Transfer of the Mortgaged Property, or an ownership interest in Borrower, Affiliated Master Lessee, Key Principal, or Guarantor for which Lender’s approval is required under this Loan Agreement (including Section 11.03(a)), Lender may, as a condition to any such approval, require:

##### additional collateral, guaranties, or other credit support to mitigate any risks concerning the proposed transferee or the performance or condition of the Mortgaged Property;

##### amendment of the Loan Documents to delete or modify any specially negotiated terms or provisions previously granted for the exclusive benefit of original Borrower, Affiliated Master Lessee, Key Principal, or Guarantor and to restore the original provisions of the standard Fannie Mae form multifamily loan documents, to the extent such provisions were previously modified or to avoid the occurrence of an Adverse Tax Event;

##### a modification to the amounts required to be deposited into the Reserve/Escrow Account pursuant to the terms of Section 13.02(a)(3);

##### with respect to any MBS trust that directly or indirectly holds the Mortgage Loan and issues MBS that are outstanding, the Transfer shall not result in an Adverse Tax Event; or

##### the Transfer would not violate the requirements of Section 11.02(b)(2)(D).

#### In connection with any request by Borrower for consent to a Transfer, Borrower shall pay to Lender upon demand:

##### the Transfer Fee (to the extent charged by Lender);

##### the Review Fee (regardless of whether Lender approves or denies such request); and

##### all of Lender’s out-of-pocket costs (including reasonable attorneys’ fees) incurred in reviewing the Transfer request, regardless of whether Lender approves or denies such request.

### Additional Permitted Transfers.

**[DRAFTING NOTE: IF BORROWER IS A CORPORATE SERVICE COMPANY INSERT THE FOLLOWING:** Notwithstanding any other provision in this Loan Agreement to the contrary, the following Transfers (“**Permitted Transfers**”) shall be permitted hereunder without Lender’s consent, provided that in each case the conditions to such Transfer set forth below have been satisfied:

#### Subject to the requirements of clauses Section 11.03(h)(1)(A) through (D) below, a Transfer of ownership interests in Borrower to another corporate service company or comparable organization acceptable to Lender (in its discretion) has occurred. The provisions of this Section 11.03(h)(1) are subject to the satisfaction of the following additional conditions precedent:

##### Borrower shall provide Lender with prior written notice of the proposed Permitted Transfer not less than thirty (30) days prior to the date of the Transfer;

##### the provisions of Section 11.03(a) shall be satisfied (other than Section 11.03(a)(8));

##### Lender’s receipt of a non-refundable review fee in the amount of $5,000 and reimbursement for all of Lender’s out-of-pocket costs (including reasonable attorneys’ fees) incurred in reviewing the Transfer request; and

##### \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall continue to be the “administrative member” of the Affiliated Master Lessee responsible for the day-to-day management, servicing and administration of the Mortgaged Property substantially as provided and subject to the limitations set forth in Affiliated Master Lessee’s Operating Agreement. **[CONFIRM ORGANIZATIONAL STRUCTURE]**

#### Subject to the requirements of clauses Section 11.03(h)(2)(A) through (D) below, a Transfer of ownership interests in the corporate service company which is the sole owner of Borrower to another employee or director of such corporate service company has occurred. The provisions of this Section 11.03(h)(2) are subject to the satisfaction of the following additional conditions precedent:

##### Borrower shall provide Lender with prior written notice of the proposed Transfer not less than thirty (30) days prior to the date of the Transfer;

##### the provisions of Section 11.03(a) shall be satisfied (other than Section 11.03(a)(8));

##### Lender’s receipt of a non-refundable review fee in the amount of $5,000 and reimbursement for all of Lender’s out-of-pocket costs (including reasonable attorneys’ fees) incurred in reviewing the Transfer request; and

##### \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall continue to be the “administrative member” of the Affiliated Master Lessee responsible for the day-to-day management, servicing and administration of the Mortgaged Property substantially as provided and subject to the limitations set forth in Affiliated Master Lessee’s Operating Agreement. **[CONFIRM ORGANIZATIONAL STRUCTURE]**

**[INSERT FOR HTC TRANSACTIONS:** Notwithstanding the foregoing, an HTC Put/Call Transfer in Master Lessee shall be consented to by Lender, provided that Borrower shall deliver, or cause to be delivered to Lender the following:

#### a copy of any notice issued by the Managing Member or the Historic Investor, as applicable, to initiate the HTC Put/Call Transfer in Master Lessee, on the date such notice is provided by the Managing Member or the Historic Investor, as applicable; and

#### copies of all organizational documents evidencing the HTC Put/Call Transfer ten (10) Business Days prior to the completion of the HTC Put/Call Transfer; and

#### any information or documents that Lender may require pursuant to Section 11.03(g).

#### If the Master Lease is terminated following the HTC Put/Call Transfer, Borrower shall deliver to Lender documentation evidencing the termination of the Master Lease within ten (10) Business Days of such termination.**]**

If the conditions set forth in this Section 11.03(h) are satisfied, then the Transfer Fee shall be **[$\_\_\_\_\_\_\_\_\_\_]**; however Borrower shall pay the Review Fee and out-of-pocket costs set forth in Section 11.03(g).**]**

### [INSERT FOR APPLICABLE HTC TRANSACTIONS – CONFIRM WITH ORGANIZATIONAL DOCUMENTS: Historic Investor Transfers.

* + - 1. Approved Transfers.

Notwithstanding anything in this Loan Agreement to the contrary, the following Transfers are permitted, provided the conditions described in Section 11.03(i)(2) are satisfied (such Transfers, the “**Managing Member Removal**”):

##### the removal of Managing Member as managing member of Borrower and its replacement as managing member by Historic Investor or a third party identified by Historic Investor and meeting the conditions set forth in Section 11.03(i)(2) (either such Person, the “**Permitted Transferee**”) in accordance with the terms of the operating agreement of Borrower; and

##### the removal of Managing Member as managing member of Master Lessee and its replacement as managing member by a Permitted Transferee in accordance with the terms of the operating agreement of Master Lessee;

* + - 1. Additional Conditions on Transfers.

The Transfers described in Section 11.03(i)(1) shall only be permitted if:

##### Historic Investor maintains its **[99.99%] [CONFIRM WITH ORGANIZATIONAL DOCUMENTS]** ownership interest in Master Lessee;

##### Lender shall have received written notice of the Transfer contemporaneously with notice thereof to Managing Member, together with copies of the documents transferring Managing Member’s interest to Permitted Transferee; the organizational documents of the Permitted Transferee; an organizational diagram showing the new ownership structure and relationships among the resulting owners, Master Lessee and Borrower;

##### Permitted Transferee shall identify a Person satisfactory to Lender to serve as substitute key principal or guarantor, as applicable;

##### Lender determines that:

###### the Permitted Transferee, any proposed new key principal or new guarantor (or Person Controlling such new key principal or new guarantor) fully satisfy all of Lender’s then-applicable eligibility, credit, management, and other loan underwriting standards, which shall include an analysis of any previous relationships between Lender and the proposed Permitted Transferee, any proposed new key principal or new guarantor (or Person Controlling such new key principal or new guarantor), and the organization of the Permitted Transferee and any proposed new key principal or new guarantor (or Person Controlling such new key principal or new guarantor);

###### none of the Permitted Transferee, any proposed new key principal or new guarantor or any owners of the proposed Permitted Transferee or any proposed new key principal or new guarantor is a Prohibited Person, and the Transfer would not violate the requirements of Section 11.02(b)(2)(D); and

###### none of the proposed Permitted Transferee or new key principal (if any of such are entities) shall have an organizational existence termination date that ends before the Maturity Date; and

##### if the existing property manager is an Affiliate of Managing Member, the existing management agreement shall be terminated without cause and without liability, by giving written notice to the existing property manager, which termination shall not be less than the earlier of the date of the Managing Member Removal, or thirty (30) days after the date of the notice of termination, and replaced with a property manager and management agreement acceptable to Lender. As a condition to any approval by Lender, Lender may require that Borrower and such new property manager enter into a collateral assignment of the property management agreement on a form approved by Lender.

If the conditions set forth in this Section 11.03(i)(2) are satisfied, the Transfer Fee shall be waived for any Transfer made pursuant to Section 11.03(i)(1); provided, however, the Transfer Fee shall not be waived if there is no Event of Default hereunder at the time of the Managing Member Removal. Borrower shall pay the Review Fee and out-of-pocket costs set forth in Section 11.03(g).**]**

#  - IMPOSITIONS

## Representations and Warranties.

The representations and warranties made by Borrower to Lender in this Section 12.01 are made as of the Effective Date and are true and correct except as disclosed on the Exceptions to Representations and Warranties Schedule.

### Payment of Taxes, Assessments, and Other Charges.

Borrower has:

#### paid (or with the approval of Lender, established an escrow fund sufficient to pay when due and payable) all amounts and charges relating to the Mortgaged Property that have become due and payable before any fine, penalty interest, lien, or costs may be added thereto, including Impositions, leasehold payments and ground rents;

#### paid all Taxes for the Mortgaged Property that have become due before any fine, penalty interest, lien, or costs may be added thereto pursuant to any notice of assessment received by Borrower and any and all taxes that have become due against Borrower before any fine, penalty interest, lien, or costs may be added thereto;

#### no knowledge of any basis for any additional assessments;

#### no knowledge of any presently pending special assessments against all or any part of the Mortgaged Property, or any presently pending special assessments against Borrower; and

#### not received any written notice of any contemplated special assessment against the Mortgaged Property, or any contemplated special assessment against Borrower.

## Covenants.

### Imposition Deposits, Taxes, and Other Charges.

Borrower shall:

#### deposit the Imposition Deposits with Lender on each Payment Date (or on another day designated in writing by Lender) in amount sufficient, in Lender’s discretion, to enable Lender to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added, plus an amount equal to no more than one-sixth (or the amount permitted by applicable law) of the Impositions for the trailing twelve (12) months (calculated based on the aggregate annual Imposition costs divided by twelve (12) and multiplied by two (2));

#### deposit with Lender, within ten (10) days after written notice from Lender (subject to applicable law), such additional amounts estimated by Lender to be reasonably necessary to cure any deficiency in the amount of the Imposition Deposits held for payment of a specific Imposition;

#### except as set forth in Section 12.03(c) below, pay all Impositions, leasehold payments, ground rents, and Taxes when due and before any fine, penalty interest, lien, or costs may be added thereto;

#### promptly deliver to Lender a copy of all notices of, and invoices for, Impositions, and, if any Imposition is paid directly, Borrower shall promptly furnish to Lender receipts evidencing such payments; and

#### promptly deliver to Lender a copy of all notices of any special assessments and contemplated special assessments against the Mortgaged Property or Borrower.

## Mortgage Loan Administration Matters Regarding Impositions.

### Maintenance of Records by Lender.

Lender shall maintain records of the monthly and aggregate Imposition Deposits held by Lender for the purpose of paying Taxes, insurance premiums, and each other obligation of Borrower for which Imposition Deposits are required.

### Imposition Accounts.

All Imposition Deposits shall be held in an institution (which may be Lender, if Lender is such an institution) whose deposits or accounts are insured or guaranteed by a federal agency and which accounts meet the standards for custodial accounts as required by Lender from time to time. Lender shall not be obligated to open additional accounts, or deposit Imposition Deposits in additional institutions, when the amount of the Imposition Deposits exceeds the maximum amount of the federal deposit insurance or guaranty. No interest, earnings, or profits on the Imposition Deposits shall be paid to Borrower unless applicable law so requires. Imposition Deposits shall not be trust funds or operate to reduce the Indebtedness, unless applied by Lender for that purpose in accordance with this Loan Agreement. For the purposes of 9-104(a)(3) of the UCC, Lender is the owner of the Imposition Deposits and shall be deemed a “customer” with sole control of the account holding the Imposition Deposits.

### Payment of Impositions; Sufficiency of Imposition Deposits.

Lender may pay an Imposition according to any bill, statement, or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement, or estimate or into the validity of the Imposition.Imposition Deposits shall be required to be used by Lender to pay Taxes, insurance premiums and any other individualImposition only if:

#### no Event of Default exists;

#### Borrower has timely delivered to Lender all applicable bills or premium notices that it has received; and

#### sufficient Imposition Deposits are held by Lender for each Imposition at the time such Imposition becomes due and payable.

Lender shall have no liability to Borrower or any other Person for failing to pay any Imposition if any of the conditions are not satisfied. If at any time the amount of the Imposition Deposits held for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Lender to be held in connection with such Imposition, the excess may be credited against future installments of Imposition Deposits for such Imposition.

### Imposition Deposits Upon Event of Default.

If an Event of Default has occurred and is continuing, Lender may apply any Imposition Deposits, in such amount and in such order as Lender determines, to pay any Impositions or as a credit against the Indebtedness.

### Contesting Impositions.

Other than insurance premiums, Borrower may contest, at its expense, by appropriate legal proceedings, the amount or validity of any Imposition if:

#### Borrower notifies Lender of the commencement or expected commencement of such proceedings;

#### Lender determines that the Mortgaged Property is not in danger of being sold or forfeited;

#### Borrower deposits with Lender (or the applicable Governmental Authority if required by applicable law) reserves sufficient to pay the contested Imposition, if required by Lender (or the applicable Governmental Authority);

#### Borrower furnishes whatever additional security is required in the proceedings or is reasonably requested in writing by Lender; and

#### Borrower commences, and at all times thereafter diligently prosecutes, such contest in good faith until a final determination is made by the applicable Governmental Authority.

### Release to Borrower.

Upon payment in full of all sums secured by the Security Instrument and this Loan Agreement and release by Lender of the lien of the Security Instrument, Lender shall disburse to Borrower the balance of any Imposition Deposits then on deposit with Lender.

#  - REPLACEMENTS, REPAIRS, AND RESTORATION

## Covenants.

### Initial Deposits to Replacement Reserve Account, Repairs Escrow Account, and Restoration Reserve Account.

#### On the Effective Date, Borrower shall pay to Lender:

##### the Initial Replacement Reserve Deposit for deposit into the Replacement Reserve Account; and

##### the Repairs Escrow Deposit for deposit into the Repairs Escrow Account.

#### After an event of loss (except as set forth in Section 9.03(b)(2)), Borrower shall deliver or cause to be delivered to Lender any insurance proceeds received under any insurance policy required to be maintained in accordance with Article 9.

### Monthly Replacement Reserve Deposits.

Borrower shall deposit the applicable Monthly Replacement Reserve Deposit into the Replacement Reserve Account on each Payment Date.

### Payment and Deliverables for Replacements, Repairs, and Restoration.

Borrower shall:

#### pay all invoices for Replacements, Repairs, and Restoration, regardless of whether funds on deposit in the applicable Reserve/Escrow Account are sufficient to pay the full amount of such invoices, prior to any request for disbursement from such Reserve/Escrow Account (unless Lender has agreed to issue joint checks in connection with a particular Replacement, Repair, or Restoration);

#### pay all applicable fees and charges of any Governmental Authority on account of the Replacements, Repairs, and Restoration, as applicable;

#### provide evidence satisfactory to Lender of completion of the Replacements, Restoration (within the period required under Section 9.03(b)(1)(B)(iv) or such other period required by Lender), and any Required Repairs (within the Completion Period or within such other period or by such other date set forth in the Required Repair Schedule and any Borrower Requested Repairs and Additional Lender Repairs (by the date specified by Lender for any such Borrower Requested Repairs or Additional Lender Repairs)); and

#### prior to commencement of any Restoration, Borrower shall deliver to Lender, for Lender’s review and approval:

##### a copy of the plans and specifications for the Restoration; and

##### a copy of all building and other permits and authorizations required by any law, ordinance, statute, rule or regulation of the Governmental Authority to carry out the Restoration.

### Assignment of Contracts for Replacements, Repairs, and Restoration.

Borrower shall collaterally assign to Lender as additional security any contract or subcontract for Replacements, Repairs, or Restoration, upon Lender’s written request, on a form of assignment approved by Lender.

### Indemnification.

If Lender elects to exercise its rights under Section 14.03 due to Borrower’s failure to timely commence or complete any Replacements, Repairs, or Restoration, Borrower shall indemnify and hold Lender harmless for, from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations, and costs or expenses, including litigation costs and reasonable attorneys’ fees, arising from or in any way connected with the performance by Lender of the Replacements, Repairs, or Restoration or the investment of the Reserve/Escrow Account Funds; provided that Borrower shall have no indemnity obligation if such actions, suits, claims, demands, liabilities, losses, damages, obligations, and costs or expenses, including litigation costs and reasonable attorneys’ fees, arise as a result of the willful misconduct or gross negligence of Lender, Lender’s agents, employees, or representatives as determined by a court of competent jurisdiction pursuant to a final non-appealable court order.

### Amendments to Loan Documents.

Subject to Section 5.02, Borrower shall execute and deliver to Lender, upon written request, an amendment to this Loan Agreement, the Security Instrument, and any other Loan Document deemed necessary or desirable to perfect Lender’s lien upon any portion of the Mortgaged Property for which Reserve/Escrow Account Funds were expended.

### Administrative Fees and Expenses.

Borrower shall pay to Lender:

#### by the date specified in the applicable invoice, the Repairs Escrow Account Administration Fee, the Replacement Reserve Account Administration Fee, and the Restoration Reserve Account Administration Fee for Lender’s services in administering the Reserve/Escrow Accounts and investing the Reserve/Escrow Account, Funds;

#### upon demand, a reasonable inspection fee, not exceeding the Maximum Inspection Fee, for each inspection of the Mortgaged Property by Lender in connection with a Repair, Replacement, or Restoration item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections; and

#### upon demand, all reasonable fees charged by any engineer, architect, inspector or other person inspecting the Mortgaged Property on behalf of Lender for each inspection of the Mortgaged Property in connection with a Repair, Replacement, or Restoration item, plus all other reasonable costs and out-of-pocket expenses relating to such inspections.

## Mortgage Loan Administration Matters Regarding Reserves.

### Accounts, Deposits, and Disbursements.

* + - 1. Custodial Accounts.

##### The Replacement Reserve Account shall be an interest-bearing account that meets the standards for custodial accounts as required by Lender from time to time. Lender shall not be responsible for any losses resulting from the investment of the Replacement Reserve Deposits or for obtaining any specific level or percentage of earnings on such investment. All interest, if any, earned on the Replacement Reserve Deposits shall be added to and become part of the Replacement Reserve Account; provided, however, if applicable law requires, and so long as no Event of Default has occurred and is continuing under any of the Loan Documents, Lender shall pay to Borrower the interest earned on the Replacement Reserve Account not less frequently than the Replacement Reserve Account Interest Disbursement Frequency.

##### Lender shall not be obligated to deposit the Repairs Escrow Deposits or any funds held in the Restoration Reserve Account into an interest-bearing account.

##### In no event shall Lender be obligated to disburse funds from any Reserve/Escrow Account if an Event of Default has occurred and is continuing.

* + - 1. Disbursements by Lender Only.

Only Lender or a designated representative of Lender may make disbursements from the Reserve/Escrow Accounts. Disbursements shall only be made upon Borrower request and after satisfaction of all conditions for disbursement.

* + - 1. Adjustment to Deposits.
				1. Mortgage Loan Terms Exceeding Ten (10) Years.

If the Loan Term exceeds ten (10) years (or five (5) years in the case of any Mortgaged Property that is an “affordable housing property” as indicated on the Summary of Loan Terms), a property condition assessment shall be ordered by Lender for the Mortgaged Property at the expense of Borrower (which expense may be paid out of the Replacement Reserve Account if excess funds are available). The property condition assessment shall be performed no earlier than the sixth month and no later than the ninth month of the tenth Loan Year and every tenth Loan Year thereafter if the Loan Term exceeds twenty (20) years (or the fifth Loan Year in the case of any Mortgaged Property that is an “affordable housing property” as indicated on the Summary of Loan Terms and every fifth Loan Year thereafter if the Loan Term exceeds ten (10) years). After review of the property condition assessment, the amount of the Monthly Replacement Reserve Deposit may be adjusted by Lender for the remaining Loan Term by written notice to Borrower so that the Monthly Replacement Reserve Deposits are sufficient to fund the Replacements as and when required and/or the amount to be held in the Repairs Escrow Account may be adjusted by Lender so that the Repairs Escrow Deposit is sufficient to fund the Repairs as and when required.

* + - * 1. Transfers.

In connection with any Transfer of the Mortgaged Property, the Master Lease, or any Transfer of an ownership interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal that requires Lender’s consent, Lender may review the amounts on deposit, if any, in the Reserve/Escrow Accounts, the amount of the Monthly Replacement Reserve Deposit and the likely repairs and replacements required by the Mortgaged Property, and the related contingencies which may arise during the remaining Loan Term. Based upon that review, Lender may require an additional deposit to the Replacement Reserve Account, the Repairs Escrow Account, or the Restoration Reserve Account, or an increase in the amount of the Monthly Replacement Reserve Deposit as a condition to Lender’s consent to such Transfer.

* + - 1. Insufficient Funds.

Lender may, upon ten (10) days’ prior written notice to Borrower, require an additional deposit(s) to the Replacement Reserve Account, the Repairs Escrow Account, or the Restoration Reserve Account, or an increase in the amount of the Monthly Replacement Reserve Deposit, if Lender determines that the amounts on deposit in any of the Reserve/Escrow Accounts are not sufficient to cover the costs for Required Repairs, Required Replacements, or the Restoration or, pursuant to the terms of Section 13.02(a)(9), not sufficient to cover the costs for Borrower Requested Repairs, Additional Lender Repairs, Borrower Requested Replacements, or Additional Lender Replacements. Borrower’s agreement to complete the Replacements, the Repairs, or the Restoration as required by this Loan Agreement shall not be affected by the insufficiency of any balance in the Reserve/Escrow Accounts.

* + - 1. Disbursements for Replacements, Repairs, and Restoration.

##### With respect to Replacements, disbursement requests may only be made after completion of the applicable Replacements and only to reimburse Borrower for the actual approved costs of the Replacements. Lender shall not disburse from the Replacement Reserve Account the costs of routine maintenance to the Mortgaged Property or for costs which are to be reimbursed from any other Reserve/Escrow Account. Disbursement from the Replacement Reserve Account shall not be made more frequently than the Maximum Replacement Reserve Disbursement Interval. Other than in connection with a final request for disbursement, disbursements from the Replacement Reserve Account shall not be less than the Minimum Replacement Reserve Disbursement Amount.

##### With respect to Repairs, disbursement requests may only be made after completion of the applicable Repairs and only to reimburse Borrower for the actual cost of the Repairs, up to the Maximum Repair Cost. Lender shall not disburse any amounts which would cause the funds remaining in the Repairs Escrow Account after any disbursement (other than with respect to the final disbursement) to be less than the Maximum Repair Cost of the then-current estimated cost of completing all remaining Repairs. Lender shall not disburse from the Repairs Escrow Account the costs of routine maintenance to the Mortgaged Property or for costs which are to be reimbursed from any other Reserve/Escrow Account. Disbursement from the Repairs Escrow Account shall not be made more frequently than the Maximum Repair Disbursement Interval. Other than in connection with a final request for disbursement, disbursements from the Repairs Escrow Account shall not be less than the Minimum Repairs Disbursement Amount.

##### With respect to Restoration, disbursement requests may only be made after completion of the applicable Restoration and only to pay for or reimburse Borrower for the actual approved costs of the Restoration. Each disbursement shall be equal to the amount of the actual approved costs of the Restoration items covered by the disbursement request. In addition, Lender shall not disburse any amounts which would cause the funds remaining in the Restoration Reserve Account after any disbursement (other than with respect to the final disbursement) to be less than the then-current estimated cost of completing all remaining Restoration. Lender shall not disburse from the Restoration Reserve Account the costs of routine maintenance to the Mortgaged Property or for costs which are to be reimbursed from any other Reserve/Escrow Account. Disbursement from the Restoration Reserve Account shall not be made more frequently than the Maximum Restoration Reserve Disbursement Interval. Other than in connection with a final request for disbursement, disbursements from the Restoration Reserve Account shall not be less than the Minimum Restoration Reserve Disbursement Amount.

* + - 1. Disbursement Requests.

Borrower must submit a disbursement request in writing for each disbursement from a Reserve/Escrow Account, which disbursement request must specify the items of Replacement, Repairs, or Restoration for which reimbursement is requested (provided that for any Borrower Requested Replacements, Borrower Requested Repairs, Additional Lender Replacements, and Additional Lender Repairs, Lender shall have approved the use of the Reserve/Escrow Account Funds for such replacements or repairs pursuant to the terms of Section 13.02(a)(9)), and must:

##### if applicable, specify the quantity and price of the items or materials purchased, grouped by type or category;

##### if applicable, specify the cost of all contracted labor or other services, including architectural services, involved in the Replacement, Repair, or Restoration for which such request for disbursement is made;

##### if applicable, include copies of invoices for all items or materials purchased and all contracted labor or services provided;

##### include evidence of payment of such Replacement, Repair, or Restoration satisfactory to Lender (unless Lender has agreed to issue joint checks in connection with a particular Repair, Replacement, or Restoration item as provided in this Loan Agreement);

##### if applicable, contain a certification by Borrower and, if applicable (and if reasonably requested by Lender), from Master Lessee that the Repair, Replacement, or Restoration has been completed lien free and in a good and workmanlike manner, in accordance with any plans and specifications previously approved by Lender (if applicable) and in compliance with all applicable laws, ordinances, rules, and regulations of any Governmental Authority having jurisdiction over the Mortgaged Property, and otherwise in accordance with the provisions of this Loan Agreement; and

##### if applicable, include evidence that any certificates of occupancy required by applicable laws or any Governmental Authority have been issued.

* + - 1. Conditions to Disbursement.

In addition to each disbursement request and information required in connection with such disbursement request, Lender may require any or all of the following at the expense of Borrower as a condition to disbursement of Reserve/Escrow Account Funds (provided that for any Borrower Requested Replacements, Borrower Requested Repairs, Additional Lender Replacements, and Additional Lender Repairs, Lender shall have approved the use of the Reserve/Escrow Account Funds for such replacements or repairs pursuant to the terms of Section 13.02(a)(9)):

##### an inspection by Lender of the Mortgaged Property and the applicable Replacement, Repair, or Restoration item;

##### an inspection or certificate of completion by an appropriate independent qualified professional (such as an architect, engineer or property inspector, depending on the nature of the Repair, Replacement, or Restoration) selected by Lender;

##### either:

###### a search of title to the Mortgaged Property effective to the date of disbursement; or

###### a “date-down” endorsement to Lender’s Title Policy (or a new Lender’s Title Policy if a “date-down” is not available) extending the effective date of such policy to the date of disbursement, and showing no Liens other than Permitted Encumbrances, liens which Borrower is diligently contesting in good faith that have been bonded off to the satisfaction of Lender, or mechanics’ or materialmen’s liens which attach automatically under the laws of any Governmental Authority upon the commencement of any work upon, or delivery of any materials to, the Mortgaged Property and for which Borrower is not delinquent in the payment for any such work or materials; and

##### an acknowledgement of payment, waiver of claims, and release of lien for work performed and materials supplied from each contractor, subcontractor or materialman in accordance with the requirements of applicable law and covering all work performed and materials supplied (including equipment and fixtures) for the Mortgaged Property by that contractor, subcontractor, or materialman through the date covered by the disbursement request (or, in the event that payment to such contractor, subcontractor, or materialman is to be made by a joint check, the release of lien shall be effective through the date covered by the previous disbursement).

* + - 1. Joint Checks for Periodic Disbursements.

Lender may, upon Borrower’s written request, issue joint checks, payable to Borrower and the applicable supplier, materialman, mechanic, contractor, subcontractor, or other similar party, if:

##### the cost of the Replacement, Repair, or Restoration item exceeds the Replacement Threshold, the Repair Threshold, or the Restoration Threshold, as applicable, and the contractor performing such Replacement, Repair, or Restoration requires periodic payments pursuant to the terms of the applicable written contract;

##### the contract for such Replacement, Repair, or Restoration item requires payment upon completion of the applicable portion of the work;

##### Borrower makes the disbursement request after completion of the applicable portion of the work required to be completed under such contract;

##### the materials for which the request for disbursement has been made are on site at the Mortgaged Property and are properly secured or installed;

##### Lender determines that the remaining funds in the Reserve/Escrow Account are sufficient to pay the cost of the Replacement, Repair, or Restoration item, as applicable, and the then-current estimated cost of completing all remaining Required Replacements, Restoration, or Required Repairs (at the Maximum Repair Cost), as applicable, and any other Borrower Requested Replacements, Borrower Requested Repairs, Additional Lender Replacements, or Additional Lender Repairs that have been previously approved by Lender;

##### each supplier, materialman, mechanic, contractor, subcontractor, or other similar party receiving payments shall have provided, if requested in writing by Lender, a waiver of liens with respect to amounts which have been previously paid to them; and

##### all other conditions for disbursement have been satisfied.

* + - 1. Replacements and Repairs Other than Required Replacements or Required Repairs.
				1. Borrower Requested Replacements and Borrower Requested Repairs.

Borrower may submit a disbursement request from the Replacement Reserve Account or the Repairs Escrow Account to reimburse Borrower for any Borrower Requested Replacement or Borrower Requested Repair. The disbursement request must be in writing and include an explanation for such request. Lender shall make disbursements for Borrower Requested Replacements or Borrower Requested Repairs if:

###### they are of the type intended to be covered by the Replacement Reserve Account or the Repairs Escrow Account, as applicable;

###### the costs are commercially reasonable;

###### the amount of funds in the Replacement Reserve Account or Repairs Escrow Account, as applicable, is sufficient to pay such costs and the then-current estimated cost of completing all remaining Required Replacements or Required Repairs (at the Maximum Repair Cost), as applicable, and any other Borrower Requested Replacements, Borrower Requested Repairs, Additional Lender Replacements or Additional Lender Repairs that have been previously approved by Lender; and

###### all conditions for disbursement from the Replacement Reserve Account or Repairs Escrow Account, as applicable, have been satisfied.

Nothing in this Loan Agreement shall limit Lender’s right to require an additional deposit to the Replacement Reserve Account or an increase to the Monthly Replacement Reserve Deposit in connection with any such Borrower Requested Replacements, or an additional deposit to the Repairs Escrow Account for any such Borrower Requested Repairs.

* + - * 1. Additional Lender Replacements and Additional Lender Repairs.

Lender may require, as set forth in Section 6.02(b), Section 6.03(c), or otherwise from time to time, upon written notice to Borrower, that Borrower make Additional Lender Replacements or Additional Lender Repairs. Lender shall make disbursements from the Replacement Reserve Account for Additional Lender Replacements or from the Repairs Escrow Account for Additional Lender Repairs, as applicable, if:

###### the costs are commercially reasonable;

###### the amount of funds in the Replacement Reserve Account or the Repairs Escrow Account, as applicable, is sufficient to pay such costs and the then-current estimated cost of completing all remaining Required Replacements or Required Repairs (at the Maximum Repair Cost), as applicable, and any other Borrower Requested Replacements, Borrower Requested Repairs, Additional Lender Replacements, or Additional Lender Repairs that have been previously approved by Lender; and

###### all conditions for disbursement from the Replacement Reserve Account or Repairs Escrow Account, as applicable, have been satisfied.

Nothing in this Loan Agreement shall limit Lender’s right to require an additional deposit to the Replacement Reserve Account or an increase to the Monthly Replacement Reserve Deposit for any such Additional Lender Replacements or an additional deposit to the Repairs Escrow Account for any such Additional Lender Repair.

* + - 1. Excess Costs.

In the event any Replacement or Repair exceeds the approved cost set forth on the Required Replacement Schedule for Replacements, or the Maximum Repair Cost for Repairs, as applicable, or any Restoration item exceeds the initial cost approved by Lender for Restoration, Borrower may submit a disbursement request to reimburse Borrower for such excess cost. The disbursement request must be in writing and include an explanation for such request. Lender shall make disbursements from the applicable Reserve/Escrow Account, if:

##### the excess cost is commercially reasonable;

##### the amount of funds in the applicable Reserve/Escrow Account, is sufficient to pay such excess costs and the then-current estimated cost of completing all remaining Required Replacements, Restoration, or Required Repairs (at the Maximum Repair Cost), as applicable, and any other Borrower Requested Replacements, Borrower Requested Repairs, Additional Lender Replacements, or Additional Lender Repairs that have been previously approved by Lender; and

##### all conditions for disbursement from the applicable Reserve/Escrow Account have been satisfied.

* + - 1. Final Disbursements.

Upon completion and satisfaction of all conditions for disbursements for any Repairs and Restoration, and further provided no Event of Default has occurred and is continuing, Lender shall disburse to Borrower any amounts then remaining in the Repairs Escrow Account or the Restoration Reserve Account, as applicable. Upon payment in full of the Indebtedness and release by Lender of the lien of the Security Instrument, Lender shall disburse to Borrower any and all amounts then remaining in the Reserve/Escrow Accounts (if not previously released).

### Approvals of Contracts; Assignment of Claims.

Lender retains the right to approve all contracts or work orders with materialmen, mechanics, suppliers, subcontractors, contractors, or other parties providing labor or materials in connection with the Replacements, Repairs, or Restoration. Notwithstanding Borrower’s assignment in the Security Instrument (or Master Lessee’s assignment pursuant to the **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** SASA**] [INSERT FOR SHARIA AND HTC TRANSACTIONS:** Master Lease Documents**]**) of its rights and claims against all Persons supplying labor or materials in connection with the Replacements, Repairs, or Restoration, Lender will not pursue any such right or claim unless an Event of Default has occurred and is continuing or as otherwise provided in Section 14.03(c).

### Delays and Workmanship.

If any work for any Replacement, Repair, or Restoration item has not timely commenced, has not been timely performed in a workmanlike manner, or has not been timely completed in a workmanlike manner, Lender may, without notice to Borrower:

#### withhold disbursements from the applicable Reserve/Escrow Account;

#### proceed under existing contracts or contract with third parties to make or complete such Replacements, Repairs, or Restoration item;

#### apply the funds in the applicable Reserve/Escrow Account toward the labor and materials necessary to make or complete such Replacements, Repairs, or Restoration items, as applicable; or

#### exercise any and all other remedies available to Lender under this Loan Agreement or any other Loan Document, including any remedies otherwise available upon an Event of Default pursuant to the terms of Section 14.02.

To facilitate Lender’s completion and performance of such Replacements, Repairs, or Restoration items, Lender shall have the right to enter onto the Mortgaged Property and perform any and all work and labor necessary to make or complete the Replacements, Repairs, or Restoration and employ watchmen to protect the Mortgaged Property from damage. All funds so expended by Lender shall be deemed to have been advanced to Borrower, and included as part of the Indebtedness and secured by the Security Instrument and this Loan Agreement.

### Appointment of Lender as Attorney-In-Fact.

Borrower hereby authorizes and appoints Lender as attorney-in-fact pursuant to Section 14.03(c).

### No Lender Obligation.

Nothing in this Loan Agreement shall:

#### make Lender responsible for making or completing the Replacements, Repairs, or Restoration;

#### require Lender to expend funds, whether from any Reserve/Escrow Account, or otherwise, to make or complete any Replacement, Repair, or Restoration item;

#### obligate Lender to proceed with the Replacements, Repairs, or Restoration; or

#### obligate Lender to demand from Borrower additional sums to make or complete any Replacement, Repair, or Restoration item.

### No Lender Warranty.

Lender’s approval of any plans for any Replacement, Repair, or Restoration, release of funds from any Reserve/Escrow Account, inspection of the Mortgaged Property by Lender or its agents, representatives, or designees, or other acknowledgment of completion of any Replacement, Repair, or Restoration in a manner satisfactory to Lender shall not be deemed an acknowledgment or warranty to any Person that the Replacement, Repair, or Restoration has been completed in accordance with applicable building, zoning, or other codes, ordinances, statutes, laws, regulations, or requirements of any Governmental Authority, such responsibility being at all times exclusively that of Borrower.

#  - DEFAULTS/REMEDIES

## Events of Default.

The occurrence of any one or more of the following in this Section 14.01 shall constitute an Event of Default under this Loan Agreement.

### Automatic Events of Default.

Any of the following shall constitute an automatic Event of Default:

#### any failure by Borrower to pay or deposit when due any amount required by the Note, this Loan Agreement or any other Loan Document;

#### any failure to maintain the insurance coverage required by any Loan Document;

#### any failure by Borrower **[INSERT FOR SHARIA AND HTC [IF APPLICABLE] TRANSACTIONS:** or Affiliated Master Lessee**]** to comply with the provisions of Section 4.02(d) relating to its **[respective]** single asset status;

#### if any warranty, representation, certification, or statement of Borrower or Guarantor in this Loan Agreement or any of the other Loan Documents is false, inaccurate, or misleading in any material respect when made;

#### fraud, gross negligence, willful misconduct, or material misrepresentation or material omission by or on behalf of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal or any of their officers, directors, trustees, partners, members, or managers in connection with:

##### the application for, or creation of, the Indebtedness or the Master Lease;

##### any financial statement, rent roll, or other report or information provided to Lender during the term of the Mortgage Loan; or

##### any request for Lender’s consent to any proposed action, including a request for disbursement of Reserve/Escrow Account Funds or Collateral Account Funds;

#### the occurrence of any Transfer not permitted by the Loan Documents;

#### the occurrence of a Bankruptcy Event;

#### the commencement of a forfeiture action or proceeding, whether civil or criminal, which, in Lender’s reasonable judgment, could result in a forfeiture of the Mortgaged Property or otherwise materially impair the lien created by this Loan Agreement or the Security Instrument or Lender’s interest in the Mortgaged Property;

#### if Borrower, Affiliated Master Lessee, Guarantor, or Key Principal is a trust, or if Control of Borrower, Affiliated Master Lessee, Guarantor, or Key Principal is Transferred or if a Restricted Ownership Interest in Borrower, Affiliated Master Lessee, Guarantor, or Key Principal would be Transferred due to the termination or revocation of a trust, the termination or revocation of such trust, except as set forth in Section 11.03(d);

#### any failure by Borrower to complete any Repair related to fire, life, or safety issues in accordance with the terms of this Loan Agreement within the Completion Period (or such other date set forth on the Required Repair Schedule or otherwise required by Lender in writing for such Repair);

#### any exercise by the holder of any other debt instrument secured by a mortgage, deed of trust, or deed to secure debt on the Mortgaged Property or any interest therein of a right to declare all amounts due under that debt instrument immediately due and payable;

#### a termination, amendment, or modification of any Master Lease Document not permitted by the Loan Documents;

#### a default by either Borrower or Master Lessee which continues beyond any applicable cure period under the Master Lease Documents; **[**or]

#### **[INSERT FOR SHARIA TRANSACTIONS:** the Master Lease shall cease to be fully subordinated to the Note, this Loan Agreement or the Security Instrument or any other security given under any other Loan Document; **[**or**]]**

#### **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS:** a default under any SASA; **[**or**]]**

#### any failure by Borrower, Affiliated Master Lessee, Key Principal, or Guarantor to comply with the provisions of Section 5.02(b) and Section 5.02(c) within the timeframes specified in such Sections.

### Events of Default Subject to a Specified Period.

Any of the following defaults shall constitute an Event of Default if not cured within the timeframes specified in the Loan Documents:

#### if Key Principal or Guarantor is a natural person, the death of such individual, unless all requirements of Section 11.03(e) to cure such default are met within the timeframes set forth in such Section;

#### the occurrence of a Guarantor Bankruptcy Event, unless requirements of Section 11.03(f) to cure such default are met within the timeframes set forth in such Section; or

#### any failure by Borrower, Guarantor, Key Principal, any Borrower Affiliate, or any Affiliated Master Lessee to perform any obligation under this Loan Agreement (other than those specifically set forth in Section 14.01(a) or Section 14.01(a)(16)) or under any other Loan Document that is subject to compliance within a specified period, which failure continues beyond such specified period as set forth herein or in the applicable Loan Document.

### Events of Default Subject to Extended Cure Period.

The following shall constitute an Event of Default if the existence of such condition or event, or such failure to perform or default in performance continues for a period of thirty (30) days after written notice by Lender to Borrower of the existence of such condition or event, or of such failure to perform or default in performance, provided, however, such period may be extended for up to an additional thirty (30) days if Borrower, in the discretion of Lender, is diligently pursuing a cure of such; provided, further, however, no such written notice, grace period, or extension shall apply if, in Lender’s discretion, immediate exercise by Lender of a right or remedy under this Loan Agreement or any Loan Document is required to avoid harm to Lender or impairment of the Mortgage Loan (including the Loan Documents), the Mortgaged Property or any other security given for the Mortgage Loan:

#### any failure by Borrower, Guarantor, Key Principal, any Borrower Affiliate, or any Affiliated Master Lessee to perform any of its obligations under this Loan Agreement or any Loan Document (other than those specified in Section 14.01(a) or Section 14.01(b) above) as and when required; or

#### if Lender incurs any costs or expenses or suffers any loss or damage as a result of any claims, actions, suits or proceedings arising from any tenant opportunity to purchase act applicable to and affecting the Mortgaged Property.

## Remedies.

### Acceleration; Foreclosure.

If an Event of Default has occurred and is continuing, the entire unpaid principal balance of the Mortgage Loan, any Accrued Interest, interest accruing at the Default Rate, the Prepayment Premium (if applicable), and all other Indebtedness, at the option of Lender, shall immediately become due and payable, without any prior written notice to Borrower, unless applicable law requires otherwise (and in such case, after any required written notice has been given). Lender may exercise this option to accelerate regardless of any prior forbearance. In addition, Lender shall have all rights and remedies afforded to Lender hereunder and under the other Loan Documents, including, termination of the Master Lease and removal of the Master Lessee **[INSERT FOR NON-SHARIA AND NON-HTC TRANSACTIONS**: (subject to the terms of the SASA)**]**, foreclosure on and/or the power of sale of the Mortgaged Property, as provided in the Security Instrument, and any rights and remedies available to Lender at law or in equity (subject to Borrower’s statutory rights of reinstatement, if any). Any proceeds of a Foreclosure Event may be held and applied by Lender as additional collateral for the Indebtedness pursuant to this Loan Agreement. Notwithstanding the foregoing, the occurrence of any Bankruptcy Event shall automatically accelerate the Mortgage Loan and all obligations and Indebtedness shall be immediately due and payable without written notice or further action by Lender.

### Loss of Right to Disbursements from Collateral Accounts.

If an Event of Default has occurred and is continuing, Borrower shall immediately lose all of its rights to receive disbursements from the Reserve/Escrow Accounts and any Collateral Accounts. During the continuance of any such Event of Default, Lender may use the Reserve/Escrow Account Funds and any Collateral Account Funds (or any portion thereof) for any purpose, including:

#### repayment of the Indebtedness, including principal prepayments and the Prepayment Premium applicable to such full or partial prepayment, as applicable (however, such application of funds shall not cure or be deemed to cure any Event of Default);

#### reimbursement of Lender for all losses and expenses (including reasonable legal fees) suffered or incurred by Lender as a result of such Event of Default;

#### completion of the Replacement, Repair, Restoration, or for any other replacement or repair to the Mortgaged Property; and

#### payment of any amount expended in exercising (and the exercise of) all rights and remedies available to Lender at law or in equity or under this Loan Agreement or under any of the other Loan Documents.

Nothing in this Loan Agreement shall obligate Lender to apply all or any portion of the Reserve/Escrow Account Funds or Collateral Account Funds on account of any Event of Default or to repayment of the Indebtedness or in any specific order of priority.

### Remedies Cumulative.

Each right and remedy provided in this Loan Agreement is distinct from all other rights or remedies under this Loan Agreement or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of additional default by Borrower in order to exercise any of its remedies with respect to an Event of Default.

### [INSERT FOR HTC TRANSACTIONS: Historic Investor Cure Rights.

Lender agrees that, notwithstanding its rights to invoke the remedies permitted by this Loan Agreement or the Loan Documents, upon an Event of Default by Borrower under the Loan Documents (including the covenants to pay the Indebtedness when due), so long as Historic Investor maintains its ownership interest in Master Lessee, neither a Foreclosure Event nor a termination of the Master Lease shalloccur until such time as Historic Investor has first been given thirty (30) days’ written notice of such Event of Default and has failed to cure such Event of Default to the satisfaction of Lender in its sole discretion within such thirty (30) day period; provided, however, that during such thirty (30) day period Lender, shall be entitled to accelerate, the Note and to pursue its remedies (provided that a Foreclosure Event shall not occur, and further provided that Historic Investor shall have the right to cure such Event of Default within such thirty (30) day period notwithstanding any acceleration of the Mortgage Loan by Lender and upon such cure by Historic Investor to the satisfaction of Lender in its sole discretion the Mortgage Loan will be reinstated as if no such Event of Default had occurred) and no notice or grace period shall apply in the case of a condition which may cause imminent harm to life and safety to occupants of the Mortgaged Property. Historic Investor’s right to cure as set forth herein shall be limited to once during any twelve (12) month period.

Notwithstanding anything in this Section 14.02(d) to the contrary, if Historic Investor has exercised its right to effectuate a Managing Member Removal in accordance with Section 11.03(i) hereof, the cure period afforded to Historic Investor under this Section 14.02(d) may be extended for such time as may be required to effectuate such Managing Member Removal, so long as Historic Investor is diligently pursuing the Managing Member Removal in good faith.**]**

## Additional Lender Rights; Forbearance.

### No Effect Upon Obligations.

Lender may, but shall not be obligated to, agree with Borrower, from time to time, and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of, any Master Lessee, Guarantor, Key Principal, or other third party obligor, to take any of the following actions:

#### the time for payment of the principal of or interest on the Indebtedness may be extended, or the Indebtedness may be renewed in whole or in part;

#### the rate of interest on or period of amortization of the Mortgage Loan or the amount of the Monthly Debt Service Payments payable under the Loan Documents may be modified;

#### the time for Borrower’s performance of or compliance with any covenant or agreement contained in any Loan Document, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived;

#### any or all payments due under this Loan Agreement or any other Loan Document may be reduced;

#### any Loan Document may be modified or amended by Lender and Borrower in any respect, including an increase in the principal amount of the Mortgage Loan;

#### any amounts under this Loan Agreement or any other Loan Document may be released;

#### any security for the Indebtedness may be modified, exchanged, released, surrendered, or otherwise dealt with, or additional security may be pledged or mortgaged for the Indebtedness;

#### the payment of the Indebtedness or any security for the Indebtedness, or both, may be subordinated to the right to payment or the security, or both, of any other present or future creditor of Borrower; or

#### any other terms of the Loan Documents may be modified.

### No Waiver of Rights or Remedies.

Any waiver of an Event of Default or forbearance by Lender in exercising any right or remedy under this Loan Agreement or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of any other Event of Default or preclude the exercise or failure to exercise of any other right or remedy. The acceptance by Lender of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender’s right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for the Indebtedness shall not constitute an election by Lender of remedies so as to preclude the exercise or failure to exercise of any other right available to Lender. Lender’s receipt of any insurance proceeds or amounts in connection with a Condemnation Action shall not operate to cure or waive any Event of Default.

### Appointment of Lender as Attorney-In-Fact.

Borrower hereby irrevocably makes, constitutes, and appoints Lender (and any officer of Lender or any Person designated by Lender for that purpose) as Borrower’s true and lawful proxy and attorney-in-fact (and agent-in-fact) in Borrower’s name, place, and stead, with full power of substitution, to:

#### use any Reserve/Escrow Account Funds for the purpose of making or completing the Replacements, Repairs, or Restoration;

#### make such additions, changes, and corrections to the Replacements, Repairs, or Restoration as shall be necessary or desirable to complete the Replacements, Repairs, or Restoration;

#### employ such contractors, subcontractors, agents, architects, and inspectors as shall be required for such purposes;

#### pay, settle, or compromise all bills and claims for materials and work performed in connection with the Replacements, Repairs, or Restoration, or as may be necessary or desirable for the completion of the Replacements, Repairs, or Restoration, or for clearance of title;

#### adjust and compromise any claims under any and all policies of insurance required pursuant to this Loan Agreement and any other Loan Document, subject only to Borrower’s rights under this Loan Agreement;

#### appear in and prosecute any action arising from any insurance policies;

#### collect and receive the proceeds of insurance, and to deduct from such proceeds Lender’s expenses incurred in the collection of such proceeds;

#### commence, appear in, and prosecute, in Lender’s or Borrower’s name, any Condemnation Action;

#### settle or compromise any claim in connection with any Condemnation Action;

#### execute all applications and certificates in the name of Borrower which may be required by any of the contract documents;

#### prosecute and defend all actions or proceedings in connection with the Mortgaged Property or the rehabilitation and repair of the Mortgaged Property;

#### take such actions as are permitted in this Loan Agreement and any other Loan Documents;

#### execute such financing statements and other documents and to do such other acts as Lender may require to perfect and preserve Lender’s security interest in, and to enforce such interests in, the collateral; **[and]**

#### carry out any remedy provided for in this Loan Agreement and any other Loan Documents, including endorsing Borrower’s name to checks, drafts, instruments and other items of payment and proceeds of the collateral, executing change of address forms with the postmaster of the United States Post Office serving the address of Borrower, changing the address of Borrower to that of Lender, opening all envelopes addressed to Borrower, and applying any payments contained therein to the Indebtedness**[;][.]**

#### **[INSERT FOR SHARIA TRANSACTIONS:** enforce the terms of this Loan Agreement and the other Loan Documents against Affiliated Master Lessee, as applicable, enforce the terms of the Master Lease Documents and Borrower’s available remedies thereunder against Affiliated Master Lessee, take action against any collateral owned or leased by Affiliated Master Lessee that comprises part of the Mortgaged Property, and exercise any power of attorney granted from Affiliated Master Lessee to Borrower in connection with the Master Lease; and**]**

#### **[INSERT FOR SHARIA TRANSACTIONS:** act upon any direction or notice it receives incident to the Loan Documents directly from Affiliated Master Lessee, which will be deemed to be on behalf of Borrower. Borrower hereby agrees that Lender, on behalf of Borrower, may, but shall not be obligated to, make all decisions and determinations, and give and receive all notices, consents, approvals and other communications in the Master Lease Documents and Borrower further agrees that in any circumstance where any consent, authorization, approval, determination, or reasonableness or other similar determination of or by Borrower is required or permitted under the Master Lease Documents, such consent, authorization, approval, or determination shall be given, withheld or made by Lender; provided, however, that this sentence is not intended to confer upon Lender any rights under the Master Lease Documents or against Affiliated Master Lessee that Lender does not have or would not be able to take against Borrower under the Loan Documents if Borrower were the day-to-day operator of the Mortgaged Property. Lender shall be entitled to rely, without investigation, upon information and documentation furnished by Affiliated Master Lessee to Lender, and upon Affiliated Master Lessee’s representations to Lender that its actions are authorized pursuant to the Master Lease Documents. Provided Lender’s actions are within the scope of authority granted pursuant to the Loan Documents or available at law or in equity, Borrower hereby waives any and all rights to assert a claim or establish a defense that Lender’s good faith dealings with Affiliated Master Lessee were not authorized by the Loan Documents or the Master Lease Documents, or that Lender’s reliance upon Affiliated Master Lessee’s representations was unreasonable, negligent, wrongful, in bad faith or fraudulent.**]**

Borrower hereby acknowledges that the constitution and appointment of such proxy and attorney-in-fact are coupled with an interest and are irrevocable and shall not be affected by the disability or incompetence of Borrower. Borrower specifically acknowledges and agrees that this power of attorney granted to Lender may be assigned by Lender to Lender’s successors or assigns as holder of the Note (and the other Loan Documents). The foregoing powers conferred on Lender under this Section 14.03(c) shall not impose any duty upon Lender to exercise any such powers and shall not require Lender to incur any expense or take any action. Borrower hereby ratifies and confirms all that such attorney-in-fact may do or cause to be done by virtue of any provision of this Loan Agreement and any other Loan Documents.

Notwithstanding the foregoing provisions, Lender shall not exercise its rights as set forth in this Section 14.03(c) unless: an Event of Default has occurred and is continuing or Lender determines, in its discretion, that exigent circumstances exist or that such exercise is necessary or prudent in order to protect and preserve the Mortgaged Property, or Lender’s lien priority and security interest in the Mortgaged Property.

**[INSERT FOR SHARIA TRANSACTIONS:** Borrower: (A) represents and warrants that it has obtained a substantially similar power of attorney, with corresponding representations and acknowledgements, from Affiliated Master Lessee allowing Lender to take action against Affiliated Master Lessee on behalf of Borrower as lessor under the Master Lease, (B) shall maintain such power of attorney throughout the term of the Mortgage Loan, and (C) hereby assigns the same to Lender as additional security for the performance of the terms of this Loan Agreement and the Loan Documents.**]**

### Borrower Waivers.

If more than one Person signs this Loan Agreement as Borrower, each Borrower, with respect to any other Borrower, hereby agrees that Lender, in its discretion, may:

#### bring suit against Borrower, or any one or more of Borrower, jointly and severally, or against any one or more of them;

#### compromise or settle with any one or more of the persons constituting Borrower, for such consideration as Lender may deem proper;

#### release one or more of the persons constituting Borrower, from liability; or

#### otherwise deal with Borrower, or any one or more of them, in any manner, and no such action shall impair the rights of Lender to collect from any Borrower the full amount of the Indebtedness.

## Waiver of Marshaling.

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

Lender shall account for any moneys received by Lender in respect of any foreclosure on or disposition of collateral hereunder and under the other Loan Documents provided that Lender shall not have any duty as to any collateral, and Lender shall be accountable only for amounts that it actually receives as a result of the exercise of such powers. NONE OF LENDER OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR REPRESENTATIVES SHALL BE RESPONSIBLE TO BORROWER FOR ANY ACT OR FAILURE TO ACT UNDER ANY POWER OF ATTORNEY OR OTHERWISE, EXCEPT IN RESPECT OF DAMAGES ATTRIBUTABLE SOLELY TO THEIR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED PURSUANT TO A FINAL, NON-APPEALABLE COURT ORDER BY A COURT OF COMPETENT JURISDICTION, OR FOR ANY PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES.

#  - MISCELLANEOUS

## Governing Law; Consent to Jurisdiction and Venue.

### Governing Law.

The validity, enforceability, interpretation, and performance of this Loan Agreement shall be governed by State (as defined in the Security Instrument) law without giving effect to any conflict of law or choice of law rules that would result in the application of the laws of another jurisdiction.

### Venue.

In the administration or litigation of a controversy arising under or in relation to this Loan Agreement or the security for the Indebtedness, Borrower consents to the exercise of personal jurisdiction by State (as defined in the Security Instrument) court or federal court in such State. Borrower agrees that the State courts have subject matter jurisdiction over such controversies. If Lender elects to sue in State court, Borrower waives any right to remove to federal court or to contest the State court’s jurisdiction. Borrower waives any objection to venue in any State court or federal court in such State, and covenants and agrees not to assert any objection to venue, whether based on inconvenience, domicile, habitual residence, or other ground.

## Notice.

### Process of Serving Notice.

Except as otherwise set forth herein or in any other Loan Document, all notices under this Loan Agreement and any other Loan Document shall be:

#### in writing and shall be:

##### delivered, in person;

##### mailed, postage prepaid, either by registered or certified delivery, return receipt requested;

##### sent by overnight courier; or

##### sent by electronic mail with originals to follow by overnight courier;

#### addressed to the intended recipient at Borrower’s Notice Address and Lender’s Notice Address, as applicable; and

#### deemed given on the earlier to occur of:

##### the date when the notice is received by the addressee; or

##### if the recipient refuses or rejects delivery, the date on which the notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or such express courier service.

### Change of Address.

Any party to this Loan Agreement may change the address to which notices intended for it are to be directed by means of notice given to the other parties identified on the Summary of Loan Terms in accordance with this Section 15.02.

### Default Method of Notice.

Any required notice under this Loan Agreement or any other Loan Document which does not specify how notices are to be given shall be given in accordance with this Section 15.02.

### Receipt of Notices.

Neither Borrower nor Lender shall refuse or reject delivery of any notice given in accordance with this Loan Agreement. Each party is required to acknowledge, in writing, the receipt of any notice upon request by the other party.

### Master Lessee Notices.

Borrower acknowledges and agrees that Borrower solely shall be responsible for causing Master Lessee to comply with any notice received by Borrower from Lender, and promptly providing Lender with copies of notices received by Borrower from Master Lessee. Borrower’s compliance with or failure to act as an intermediary as described in this Section 15.02(e) shall not relieve Borrower from its obligations under this Loan Agreement, nor shall it constitute a defense or excuse for nonperformance by Borrower, Master Lessee, or any Guarantor, as applicable. Lender shall have no obligation to provide any notice to Master Lessee unless and until Lender has taken ownership or control of the Mortgaged Property, or in connection with Lender’s exercise of the power of attorney granted herein, and then only as required by the Loan Documents or the Master Lease Documents.

## Successors and Assigns Bound; Sale of Mortgage Loan.

### Binding Agreement.

This Loan Agreement shall bind, and the rights granted by this Loan Agreement shall inure to, the successors and assigns of Lender and the permitted successors and assigns of Borrower. However, a Transfer not permitted by this Loan Agreement shall be an Event of Default and shall be void ab initio.

### Sale of Mortgage Loan; Change of Servicer.

Nothing in this Loan Agreement shall limit Lender’s (including its successors and assigns) right to sell or transfer the Mortgage Loan or any interest in the Mortgage Loan. The Mortgage Loan or a partial interest in the Mortgage Loan (together with this Loan Agreement and the other Loan Documents) may be sold one or more times without prior written notice to Borrower. A sale may result in a change of the Loan Servicer.

## Counterparts.

This Loan Agreement may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document and all such counterparts shall be construed together and shall constitute one instrument.

## Joint and Several (or Solidary) Liability.

If more than one Person signs this Loan Agreement as Borrower, the obligations of such Persons shall be joint and several (solidary instead for purposes of Louisiana law).

## Relationship of Parties; No Third Party Beneficiary.

### Solely Creditor and Debtor.

The relationship between Lender and Borrower shall be solely that of creditor and debtor, respectively, and nothing contained in this Loan Agreement shall create any other relationship between Lender and Borrower, nor between Lender and Master Lessee. Nothing contained in this Loan Agreement shall constitute Lender as a joint venturer, partner, or agent of Borrower or Master Lessee, or render Lender liable for any debts, obligations, acts, omissions, representations, or contracts of Borrower or Master Lessee.

### No Third Party Beneficiaries.

No creditor of any party to this Loan Agreement and no other Person shall be a third party beneficiary of this Loan Agreement or any other Loan Document or any account created or contemplated under this Loan Agreement or any other Loan Document. Nothing contained in this Loan Agreement shall be deemed or construed to create an obligation on the part of Lender to any third party and no third party shall have a right to enforce against Lender any right that Borrower may have under this Loan Agreement. Without limiting the foregoing:

#### any Servicing Arrangement between Lender and any Loan Servicer shall constitute a contractual obligation of such Loan Servicer that is independent of the obligation of Borrower for the payment of the Indebtedness;

#### Borrower shall not be a third party beneficiary of any Servicing Arrangement; and

#### no payment by the Loan Servicer under any Servicing Arrangement will reduce the amount of the Indebtedness.

## Severability; Entire Agreement; Amendments.

The invalidity or unenforceability of any provision of this Loan Agreement or any other Loan Document shall not affect the validity or enforceability of any other provision of this Loan Agreement or of any other Loan Document, all of which shall remain in full force and effect, including the Guaranty. All of the Loan Documents contain the complete and entire agreement among the parties as to the matters covered, rights granted, and the obligations assumed in this Loan Agreement and the other Loan Documents. This Loan Agreement may not be amended or modified except by written agreement signed by the parties hereto.

## Construction.

* + 1. The captions and headings of the sections of this Loan Agreement and the Loan Documents are for convenience only and shall be disregarded in construing this Loan Agreement and the Loan Documents.
		2. Any reference in this Loan Agreement to an “Exhibit” or “Schedule” or a “Section” or an “Article” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit or Schedule attached to this Loan Agreement or to a Section or Article of this Loan Agreement.
		3. Any reference in this Loan Agreement to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.
		4. Use of the singular in this Loan Agreement includes the plural and use of the plural includes the singular.
		5. As used in this Loan Agreement, the term “including” means “including, but not limited to” or “including, without limitation,” and is for example only and not a limitation.
		6. Whenever Borrower’s knowledge is implicated in this Loan Agreement or the phrase “to Borrower’s knowledge” or a similar phrase is used in this Loan Agreement, Borrower’s knowledge or such phrase(s) shall be interpreted to mean to the best of Borrower’s knowledge after reasonable and diligent inquiry and investigation.
		7. Unless otherwise provided in this Loan Agreement, if Lender’s approval, designation, determination, selection, estimate, action, or decision is required, permitted, or contemplated hereunder, such approval, designation, determination, selection, estimate, action, or decision shall be made in Lender’s sole and absolute discretion.
		8. All references in this Loan Agreement to a separate instrument or agreement shall include such instrument or agreement as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.
		9. “Lender may” shall mean at Lender’s discretion, but shall not be an obligation.
		10. If the Mortgage Loan proceeds are disbursed on a date that is later than the Effective Date, as described in Section 2.02(a)(1), the representations and warranties in the Loan Documents with respect to the ownership and operation of the Mortgaged Property shall be deemed to be made as of the disbursement date.
		11. Each reference to “tenant” or “tenants” in the Loan Documents shall be interpreted to mean “subtenant” or “subtenants” where the context so indicates.

## Mortgage Loan Servicing.

All actions regarding the servicing of the Mortgage Loan, including the collection of payments, the giving and receipt of notice, inspections of the Mortgaged Property, inspections of books and records, and the granting of consents and approvals, may be taken by the Loan Servicer unless Borrower receives written notice to the contrary. If Borrower receives conflicting notices regarding the identity of the Loan Servicer or any other subject, any such written notice from Lender shall govern. The Loan Servicer may change from time to time (whether related or unrelated to a sale of the Mortgage Loan). If there is a change of the Loan Servicer, Borrower will be given written notice of the change.

## Disclosure of Information.

Lender may furnish information regarding Borrower, Master Lessee, Key Principal, or Guarantor, or the Mortgaged Property to third parties with an existing or prospective interest in the servicing, enforcement, evaluation, performance, purchase, or securitization of the Mortgage Loan, including trustees, master servicers, special servicers, rating agencies, and organizations maintaining databases on the underwriting and performance of multifamily mortgage loans. Borrower irrevocably waives any and all rights it may have under applicable law to prohibit such disclosure, including any right of privacy.

## Waiver; Conflict.

No specific waiver of any of the terms of this Loan Agreement shall be considered as a general waiver. If any provision of this Loan Agreement is in conflict with any provision of any other Loan Document, the provision contained in this Loan Agreement shall control.

## No Reliance.

Borrower acknowledges, represents, and warrants that:

1. it understands the nature and structure of the transactions contemplated by this Loan Agreement and the other Loan Documents;
2. it is familiar with the provisions of all of the documents and instruments relating to such transactions;
3. it understands the risks inherent in such transactions, including the risk of loss of all or any part of the Mortgaged Property;
4. it has had the opportunity to consult counsel; and
5. it has not relied on Lender for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Loan Agreement or any other Loan Document or otherwise relied on Lender in any manner in connection with interpreting, entering into, or otherwise in connection with this Loan Agreement, any other Loan Document, or any of the matters contemplated hereby or thereby.

## Subrogation.

If, and to the extent that, the proceeds of the Mortgage Loan are used to pay, satisfy, or discharge any obligation of Borrower or Master Lessee for the payment of money that is secured by a pre-existing mortgage, deed of trust, or other lien encumbering the Mortgaged Property, such Mortgage Loan proceeds shall be deemed to have been advanced by Lender at Borrower’s request, and Lender shall be subrogated automatically, and without further action on its part, to the rights, including lien priority, of the owner or holder of the obligation secured by such prior lien, whether or not such prior lien is released.

## Counting of Days.

Except where otherwise specifically provided, any reference in this Loan Agreement to a period of “days” means calendar days, not Business Days. If the date on which Borrower is required to perform an obligation under this Loan Agreement is not a Business Day, Borrower shall be required to perform such obligation by the Business Day immediately preceding such date; provided, however, in respect of any Payment Date, or if the Maturity Date is other than a Business Day, Borrower shall be obligated to make such payment by the Business Day immediately following such date.

## Revival and Reinstatement of Indebtedness.

If the payment of all or any part of the Indebtedness by Borrower, Master Lessee, any Guarantor, or any other Person, or the transfer to Lender of any collateral or other property should for any reason subsequently be declared to be void or voidable under any state or federal law relating to creditors’ rights, including provisions of the Insolvency Laws relating to a Voidable Transfer, and if Lender is required to repay or restore, in whole or in part, any such Voidable Transfer, or elects to do so upon the advice of its counsel, then the amount of such Voidable Transfer or the amount of such Voidable Transfer that Lender is required or elects to repay or restore, including all reasonable costs, expenses, and attorneys’ fees incurred by Lender in connection therewith, and the Indebtedness shall be automatically revived, reinstated, and restored by such amount and shall exist as though such Voidable Transfer had never been made.

## Time is of the Essence.

Borrower agrees that, with respect to each and every obligation and covenant contained in this Loan Agreement and the other Loan Documents, time is of the essence.

## Final Agreement.

THIS LOAN AGREEMENT ALONG WITH ALL OF THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Loan Agreement and the other Loan Documents. This Loan Agreement, the other Loan Documents, and any of their provisions may not be waived, modified, amended, discharged, or terminated except by an agreement in writing signed by the party against which the enforcement of the waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in that agreement.

## WAIVER OF TRIAL BY JURY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH OF BORROWER AND LENDER COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS LOAN AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND LENDER, THAT IS TRIABLE OF RIGHT BY A JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

## Tax Savings Clause.

Notwithstanding anything to the contrary herein, no modification to the Loan Documents (whether in connection with a Transfer or otherwise) shall result in an Adverse Tax Event.

**[Remainder of Page Intentionally Blank]**

**IN WITNESS WHEREOF**, Borrower and Lender have signed and delivered this Loan Agreement under seal (where applicable) or have caused this Loan Agreement to be signed and delivered under seal (where applicable) by their duly authorized representatives. Where applicable law so provides, Borrower and Lender intend that this Loan Agreement shall be deemed to be signed and delivered as a sealed instrument.

**BORROWER**:

[INSERT BORROWER SIGNATURE BLOCK(S)]

By: (SEAL)

Name:

Title:

**LENDER**:

[INSERT LENDER SIGNATURE BLOCK(S)]

By: (SEAL)

Name:

Title:

**SCHEDULES AND EXHIBITS**

**Schedules**

|  |  |  |
| --- | --- | --- |
| Schedule 1 | Definitions Schedule (required) | Form\_\_\_\_\_\_\_\_\_\_ |
| Schedule 2 | Summary of Loan Terms (required) | Form \_\_\_\_\_\_\_\_\_ |
| Schedule 3 | Schedule of Interest Rate Type Provisions (required) | Form \_\_\_\_\_\_\_\_\_ |
| Schedule 4 | Prepayment Premium Schedule (required) | Form \_\_\_\_\_\_\_\_\_ |
| Schedule 5 | Required Replacement Schedule (required) |  |
| Schedule 6 | Required Repair Schedule (required) |  |
| Schedule 7 | Exceptions to Representations and Warranties Schedule (required) |  |
| Schedule 8 | Ownership Interests Schedule |  |
| Schedule 9 | Form of Master Lessee Estoppel Certificate |  |

**Exhibits**

|  |  |  |
| --- | --- | --- |
| [Exhibit \_\_\_ | Modifications to Loan Agreement (if applicable) | Form \_\_\_\_\_\_\_\_] |
| [ADD EXHIBITS AS NECESSARY | Form \_\_\_\_\_\_\_\_] |

Borrower hereby acknowledges and agrees that the Schedules and Exhibits referenced above are hereby incorporated fully into this Loan Agreement by this reference and each constitutes a substantive part of this Loan Agreement.

|  |  |
| --- | --- |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Borrower Initials |

**SCHEDULE 1**

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**Definitions Schedule**

**[INSERT DEFINITIONS SCHEDULE 1 FOR APPLICABLE INTEREST RATE TYPE]**

**SCHEDULE 2**

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**Summary of Loan Terms**

**[INSERT SUMMARY OF LOAN TERMS SCHEDULE 2 FOR APPLICABLE INTEREST RATE TYPE]**

**SCHEDULE 3**

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**Schedule of Interest Rate Type Provisions**

**[INSERT SCHEDULE 3 PROVISIONS FOR APPLICABLE INTEREST RATE TYPE]**

**SCHEDULE 4**

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**Prepayment Premium Schedule**

**[INSERT SCHEDULE 4 PREPAYMENT PREMIUM FOR APPLICABLE INTEREST RATE TYPE]**

SCHEDULE 5

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

Required Replacement Schedule

**[INSERT PROPERTY CONDITION ASSESSMENT REPLACEMENT SCHEDULE]**

SCHEDULE 6

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

Required Repair Schedule

**[IF NO REPAIRS ARE REQUIRED, INSERT NONE.]**

**[DRAFTING NOTE: COMPLETE CHART INCLUDING PROPERTY ADDRESSES AND FANNIE MAE MORTGAGE LOAN NUMBER]**

|  |  |
| --- | --- |
| **Property Address** | **Collateral Reference Number** |
|  |  |

**[DRAFTING NOTE: THIS SCHEDULE MUST BE COMPLETED IF ANY REPAIRS ARE REQUIRED, EVEN IF FUNDING OF THE REPAIRS ESCROW ACCOUNT IS WAIVED]**

|  |  |  |  |
| --- | --- | --- | --- |
| **Repair Description** | **Estimated Cost** | **Maximum Repair Cost** | **Completion Date** |
|  |  | Estimated Cost x [125][150]% |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

SCHEDULE 7

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**Exceptions to Representations and Warranties Schedule**

**[IF NONE, SO STATE]**

SCHEDULE 8

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**Ownership Interests Schedule**

**[INSERT ORGANIZATIONAL CHARTS FOR BORROWER AND AFFILIATED MASTER LESSEE]**

**[DRAFTING NOTE: BORROWER MUST SHOW THE FOLLOWING ON THE OWNERSHIP INTERESTS SCHEDULE: (A) THE ROLE/TITLE OF EACH ENTITY WITHIN THE OWNERSHIP STRUCTURE (I.E., LIMITED PARTNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY, MANAGING MEMBER, GENERAL PARTNER, ETC.); (B) THE STATE OF ORGANIZATION OF EACH ENTITY; (C) RESPECTIVE INTERESTS OF EACH DIRECT AND INDIRECT OWNER TO THE EXTENT REQUIRED UNDER SECTION 4.01(a)(2); AND (D) IDENTIFICATION OF KEY PRINCIPAL AND GUARANTOR.]**

SCHEDULE 9

**TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**Form of Master Lessee Estoppel Certificate**

**[DRAFTING NOTE: INSERT CURRENT PUBLISHED FORM OF MASTER LESSEE ESTOPPEL CERTIFICATE]**

**[Remainder of Page Intentionally Blank]**