**NOTES:**

* **FOR ANY MORTGAGE LOAN WITH PREFERRED EQUITY IN BORROWER’S OWNERSHIP STRUCTURE (DIRECTLY OR INDIRECTLY) (OTHER THAN SOLELY FOR THE ALLOCATION OF LIHTCs):**
  + **THIS CHECKLIST MUST BE COMPLETED**
  + **A FINAL COPY OF THIS CHECKLIST MUST BE DELIVERED WITH LENDER’S DELIVERY TO FANNIE MAE IN 6502.FOLDER II**
  + **ANY PREFERRED EQUITY INVESTOR MUST BE IDENTIFIED IN THE SUMMARY OF LOAN TERMS ATTACHED TO THE LOAN AGREEMENT**
  + **LENDER MUST COMPLY WITH THE GUIDE AND THE PREFERRED EQUITY OPERATING PROCEDURES JOB AID**
  + **LENDER MUST ALSO ATTACH FORM 6283 (Schedule of Preferred Equity Terms) AND 6102.28 (Addenda to Schedule 2 – Preferred Equity Terms) TO THE LOAN AGREEMENT**
* **LENDER MUST SUBMIT THIS CHECKLIST TO FANNIE MAE DURING PRE-REVIEW FOR ALL MORTGAGE LOANS WITH:**
  + **HARD PAY PREFERRED EQUITY**
  + **MANDATORY PAY PREFERRED EQUITY, AND**
  + **SOFT PAY PREFERRED EQUITY THAT ARE SUBJECT TO PRE-REVIEW, AS NOTED IN THIS CHECKLIST**
* **LENDER MUST UPDATE AND RESUBMIT A CHECKLIST PREVIOUSLY SUBMITTED TO FANNIE MAE DURING PRE-REVIEW IF MATERIAL TERMS CHANGE IN GOVERNING DOCUMENTS SUBSEQUENTLY RECEIVED BY LENDER**
* **ADDITIONAL MBS DISCLOSURES MAY BE REQUIRED FOR HARD PAY PREFERRED EQUITY AND MANDATORY PAY PREFERRED EQUITY**

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| **PREFERRED EQUITY CHECKLIST** | |
| **LENDER** |  |
| **PROJECT NAME/CITY and STATE** |  |
| **BORROWER** |  |
| **KEY PRINCIPAL** |  |
| **GUARANTOR NAME (if any)** |  |
| **PREFERRED EQUITY INVESTOR (if any)** |  |
| **LENDER’S COUNSEL CONTACT INFORMATION** |  |
| **REVIEW DATE** |  |
| **EQUITY INTEREST TYPE (**complete after finalizing this checklist**)** | **Soft Pay Preferred Equity Yes ☐ No ☐**  **Mandatory Pay Preferred Equity Yes ☐ No ☐**  **Hard Pay Preferred Equity Yes ☐ No ☐**  **Any Control Takeover rights? Yes  No**  **Any Forced Sale rights? Yes  No**  **Any Redemption rights? Yes  No**  **Are all Permitted Equity Default Triggers satisfied? Yes  No**  **Are all Limitations on Equity Terms satisfied? Yes  No** |
| **DOCUMENTS REVIEWED**  List all **Governing Documents\*** | **[DRAFTING NOTE: INCLUDE DOCUMENT DATES AND DRAFT DATES]**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, [draft] dated \_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, [final] dated \_\_\_\_  Lender must attach all Governing Documents to this Preferred Equity Checklist (Exhibit A). |
| **OTHER MATERIAL FINANCIAL TERMS AND CASHFLOW/WATERFALL** | Lender must complete Exhibit C and attach it to this Preferred Equity Checklist. |
| **SOURCE AND USE SCHEDULE** | Lender must attach a source and use schedule that shows the sources and uses of the proceeds required to complete the transaction (Exhibit D). |
| **PREFERRED EQUITY REFINANCE/SALE EXIT ANALYSIS** | Lender must provide a refinance/sale exit analysis (Exhibit E) to confirm support for the Preferred Equity structure and attach it to this Preferred Equity Checklist. |

\* Lender must list organizational documents reviewed (the “**Governing Documents**”) e.g. the operating agreement, joint venture agreement or similar agreement of Borrower or of an upper-tier Borrower entity containing equity terms including all amendments, private placement memoranda, pledge agreements, guaranties, indemnities (environmental or otherwise), ERISA letters or similar agreements. Lender must review the actual operating agreement/JV agreement containing the operative terms. Include document dates and draft dates. The organizational chart and all Governing Documents must be attached as Exhibit A to this Preferred Equity Checklist.

| **PART I: DETERMINATION OF PREFERRED EQUITY INTEREST TYPE** | |
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| **Preferred Equity Generally** | If the Governing Documents provide any investor with a direct or indirect equity ownership interest in, economic interest in, or rights with respect to, Borrower (“**Equity**”) investor with preferred rights to receive dividends, distributions, payments, or returns (individually and collectively, “**Returns**”) relative to other equity owners (“**Preferred Equity**”), the transaction is considered to have Preferred Equity.  Fannie Mae permits Preferred Equity that falls within one of the following three categories, as further described below: Soft Pay Preferred Equity, Mandatory Pay Preferred Equity, or Hard Pay Preferred Equity. Lender should determine under which of these three categories the Preferred Equity falls. |
|  | |
| **Forced Sale and Control Takeover Rights** | Equity structures may include a Forced Sale right (provided it is limited to a third party based on fair market value) and/or a Control Takeover right in favor of the Preferred Equity investor subject to Lender’s approval under the Loan Documents and the terms of this checklist provided those remedies comply with the Permitted Equity Default Triggers. Additionally, the Governing Documents for any Equity structure must comply with the Limitations on Equity Terms described below.  “**Control Takeover**” means, while the Mortgage Loan is outstanding, the right of the Preferred Equity investor to directly or indirectly change Control of Borrower, Key Principal, or Guarantor, or effect a transfer of any direct or indirect ownership interest in Borrower, Key Principal or Guarantor that is prohibited under the Loan Agreement.  “**Forced Sale**” means, while the Mortgage Loan is outstanding, the right of the Preferred Equity investor to require a sale or other disposition of the Property (whether via deed or a transfer of the direct or indirect ownership interests in Borrower).  **NOTE**: The exercise of any Control Takeover is still subject to the terms of the Loan Documents including Article 11 of the Loan Agreement. Any pre-approved Control Takeover terms must be submitted to Fannie Mae for Pre-Review. |
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| **Soft Pay Preferred Equity** | A Preferred Equity structure that specifies that all Returns due to the Preferred Equity investor are only required to the extent of available Excess Net Cash Flow for so long as the Mortgage Loan is outstanding, and if Excess Net Cash Flow is not available, may be permitted to accrue.  For transactions classified as Soft Pay Preferred Equity:   1. if the Preferred Equity investor’s remedies are limited to a Forced Sale, the Preferred Equity investor must be underwritten as a Principal in accordance with the Guide (regardless of the percentage of ownership the Preferred Equity investor owns directly or indirectly in Borrower), or 2. if the Preferred Equity investor’s remedies include a Control Takeover after any Permitted Equity Default Trigger in Items 1-7 of Part II below, the Preferred Equity investor (or the appropriate Person in Control of the Preferred Equity investor) must be underwritten as a Key Principal in accordance with the Guide (i.e. such person or entity must be qualified to serve as the sole Key Principal under the transaction if the Preferred Equity investor were to execute a Control Takeover) and also identified as a Key Principal in the Loan Documents.   There are no specified loan sizing constraints for Soft Pay Preferred Equity.  If a Soft Pay Preferred Equity structure includes Permitted Equity Default Triggers that do not meet the requirements of this checklist or the Limitations on Equity Terms in this checklist, the transaction must be submitted for Pre-Review.  “**Net Cash Flow**” has the meaning set forth in the Guide.  “**Excess Net Cash Flow**” means, for any specified period, the Net Cash Flow remaining after subtracting all amounts due and owing on the Mortgage Loan (and any subordinate debt) including principal and interest, tax and insurance custodial account deposits, regardless of whether deposits will be made, and other funding obligations and amounts due and owing per the Loan Documents. |
|  |  |
| **Mandatory Pay Preferred Equity** | A Preferred Equity structure that includes Mandatory Payments and where failure to pay any Mandatory Payment could trigger the Preferred Equity investor’s right to a Forced Sale while the Mortgage Loan is outstanding.  For transactions classified as Mandatory Pay Preferred Equity, the Preferred Equity investor must be underwritten as a Key Principal in accordance with the Guide and also identified as a Key Principal in the Loan Documents.  For so long as the Mortgage Loan is outstanding, any payments due to the Preferred Equity investor (or the appropriate Person in Control of the Preferred Equity investor) that exceed the supportable Mandatory Payments may only be required to the extent of available Excess Net Cash Flow, and if Excess Net Cash Flow is not available, may be permitted to accrue (and any failure to pay must not trigger a Forced Sale or Control Takeover).  All Mandatory Pay Preferred Equity structures must be submitted for Pre-Review.  At loan origination, Mandatory Pay Preferred Equity must be constrained by the following loan sizing constraints:   1. a combined Underwritten DSCR of 1.05x calculated as required in the Guide for the Mortgage Loan, plus Returns for the Mandatory Payments based on interest-only; and 2. a maximum LTV of 90% based on the Mortgage Loan and the fully-funded Preferred Equity investment.   The supportable Mandatory Payments under a Mandatory Pay Preferred Equity is set by this loan sizing constraint without any increases permitted.  “**Mandatory Payments**” means there are Returns due to the Preferred Equity investor that are required to be paid:   1. regardless of available Excess Net Cash Flow and/or 2. based on whether the Property yields Net Cash Flow sufficient to make any such payment. |
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| **Hard Pay Preferred Equity** | A Preferred Equity structure that includes Mandatory Payments and where failure to pay any Mandatory Payment could trigger the Preferred Equity investor’s right to a Control Takeover while the Mortgage Loan is outstanding.  For transactions classified as Hard Pay Preferred Equity, the Preferred Equity investor (or the appropriate Person in Control of the Preferred Equity investor) must be underwritten as a Key Principal in accordance with the Guide and also identified as a Key Principal in the Loan Documents.  For so long as the Mortgage Loan is outstanding, any payments due to the Preferred Equity investor that exceed the supportable Mandatory Payments may only be required to the extent of available Excess Net Cash Flow, and if Excess Net Cash Flow is not available, may be permitted to accrue (and any failure to pay may not trigger a Forced Sale or Control Takeover).  At Mortgage Loan origination, Hard Pay Preferred Equity is subject to the loan sizing constraints for Hard Preferred Equity in the Multifamily Underwriting Standards/Form 4660. The supportable Mandatory Payments under Hard Pay Preferred Equity is set by this loan sizing constraint without any increases permitted.  All Hard Pay Preferred Equity structures must be submitted for Pre-Review.  For Hard Pay Preferred Equity, the Preferred Equity investor must (directly or through affiliates) have owned, operated or asset-managed at least 25,000 multifamily units in the past five years, not including any investments through (i) mezzanine loans or (ii) other Preferred Equity joint ventures. |

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| **PART II: PERMITTED EQUITY DEFAULT TRIGGERS**  **Lender must complete this Part II for all Preferred Equity transactions (as limited by the Limitations on Equity Terms).**  **The right under the Governing Documents may only be exercised in response to one or more of the “Permitted Equity Default Triggers” set forth below. Lender must confirm the Governing Documents include no other triggers.**  **If Lender recommends approval of any other trigger, include the trigger, any remedies related to the trigger, the rationale for the recommendation and mitigants.** | | | | |
| **ITEM** | **PERMITTED EQUITY DEFAULT TRIGGERS**  Except as noted below, the Permitted Equity Default Triggers shall be based only on the events, actions or inactions of the Key Principal or an affiliate of the Key Principal and shall not be based on the events, actions or inactions of any other Person. (All references to “Key Principal” refer to the Key Principal that Controls Borrower.) | | **INCLUDED (Yes/No)** | **REVIEWER ANALYSIS**  **(Include Governing Document name and section references as appropriate. Identify the remedy (i.e. Forced Sale, Control Takeover, both, other) and identify any exceptions to the triggers.)** |
|  | **Violation of Non-Recourse Carveouts** | Any action, inaction or event that triggers personal recourse liability under the non-recourse carveouts under the Loan Documents. | Yes  No |  |
|  | **Mortgage Loan Default** | Any Event of Default or default under the Loan Documents (other than an Event of Default or default caused by the Preferred Equity investor or its affiliates) which default, if left uncured beyond the applicable cure period, would result in an Event of Default under the Loan Documents.  NOTE: Any Event of Default or default under the Loan Documents must be cured prior to the Preferred Equity investor exercising any Forced Sale or Control Takeover right. | Yes  No |  |
|  | **Failure to Make Mandatory Payments or Meet Minimum Return** | For Mandatory Pay Preferred Equity or Hard Pay Preferred Equity: any failure to make a Mandatory Payment or any failure of the Property to yield Net Cash Flow sufficient to make a Mandatory Payment. | Yes  No  N/A |  |
| **Failure to Make Soft Pay Payments from Excess Cash Flow** | For Soft Pay Preferred Equity: any failure to make a Soft Pay Preferred Equity Return when there has been sufficient Excess Net Cash Flow to make such payments. | Yes  No  N/A |  |
|  | **Misuse of Property Revenue or Misapplication of Waterfall** | Any failure to apply Property revenue as required by a Borrower budget or Property operating plan that was approved by the Preferred Equity investor, if such approval is required; or failure to apply Excess Net Cash Flow in accordance with the waterfall required by the Governing Documents (including any failure to make Soft Pay Preferred Equity payments, Mandatory Pay Preferred Equity payments, or Hard Pay Preferred Equity payments when there has been sufficient Excess Net Cash Flow). | Yes  No |  |
|  | **Failure to Make Capital Contribution** | Any failure to make a capital contribution required by the Governing Documents. | Yes  No |  |
|  | **Unauthorized Action; Deadlock** | Any action which constitutes or effectuates a “Major Decision” without consent of the Preferred Equity investor (where consent of the Preferred Equity investor is required), or an impasse or deadlock due to a dispute over a Major Decision. See Exhibit B attached to this Preferred Equity Checklist for guidance on Acceptable Major Decisions. | Yes  No |  |
|  | **Key Principal Bankruptcy** | The occurrence of a bankruptcy event by Key Principal, where “bankruptcy event means”:  (a) the commencement, filing or continuation of a voluntary case or proceeding by Key Principal under one or more of insolvency laws;  (b) the acknowledgment in writing (other than to Lender in connection with a workout) that Key Principal is unable to pay its debts generally as they mature;  (c) the making of a general assignment for the benefit of creditors by Key Principal; or  (d) the commencement, filing or continuation of an involuntary case or proceeding against Key Principal under one or more insolvency laws. | Yes  No |  |
|  | **Felony Conviction** | Any felony conviction of Key Principal. | Yes  No |  |
|  | **Death and Incompetence** | In the event the Key Principal is a natural person, the death of the Key Principal or the declaration that the Key Principal is declared legally incompetent. | Yes  No |  |
|  | **False Statements** | Any representation or warranty to the Preferred Equity investor related to the Property, Borrower or the Mortgage Loan that is false or misleading in any material respect as of the date such representation or warranty was made. | Yes  No |  |
|  | **Fraud** | Any fraud, gross negligence or willful misconduct related to the ownership or operation of the Property. | Yes  No |  |
|  |  | **[DRAFTING NOTE: Any other triggers require Fannie Mae Pre-Review. Examples of other triggers include a Forced Sale after a date certain, a Control Takeover or Forced Sale based on economic hurdles other than mandatory payments, etc. Describe any other triggers and provide reviewer analysis, including the available remedies related to such trigger.]** |  | [DESCRIBE AVAILABLE REMEDY, RATIONALE, AND MITIGANTS] |

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| **PART III: LIMITATIONS ON EQUITY TERMS**  **The following requirements apply to all transactions and must be satisfied while the Mortgage Loan is outstanding regardless of equity type. If Lender recommends approving any exceptions to these limitations, provide mitigants and rationale.** | | | | |
|  | **SUBJECT MATTER** | **REQUIREMENT** | **SATISFIED Yes/No** | **REVIEWER ANALYSIS** |
|  | **No Other Remedies for Defaults Under the Governing Documents** | Except as permitted in the Loan Documents or otherwise approved by Lender, the Preferred Equity investor has no rights or remedies for defaults based on actions or inactions by the Key Principal or other equity investors under the Governing Documents other than the right of the Preferred Equity investor to directly or indirectly while the Mortgage Loan is outstanding:  (i) a Control Takeover,  (ii) a Forced Sale to a third party based on fair market value,  (iii) sue for a breach of contract under the Governing Documents, or  (iv) increase the Preferred Equity investor’s preferred Returns percentage. [Note: include amount of any percentage increase in Reviewer Analysis column.]  Note: Any other remedies require Fannie Mae Pre-Review. Examples of additional remedies which require pre-approval include a Forced Sale to an affiliate, a Forced Sale based on less than fair market value, etc. | Yes  No |  |
|  | **No Cash Sweeps** | The Preferred Equity investor must not be entitled to a cash sweep of any Property cash flow, except in the event of a Permitted Equity Default Trigger. | Yes  No |  |
|  | **Fixed Rate Required; No Escalation** | Any Preferred Equity must have a fixed rate of return without escalation so long as the Mortgage Loan is outstanding. | Yes  No |  |
|  | **No Cash Reserves Benefit Preferred Equity Investor** | No Property cash reserves (including reserves for replacements, taxes, insurance, cap costs, capital improvements, rate caps, etc.) or Borrower cash reserves will be held by or assigned to the Preferred Equity investor or could otherwise be used to repay the Preferred Equity investor investment.  NOTE: If there are such cash reserves, provide details, such as what it is for, how it is funded, whether it can be reduced, if the Loan Documents require such reserves to be fully or partially funded, or if the Loan Documents waive such reserves. | Yes  No |  |
|  | **No Collateral Security** | No Equity investment may be secured by any collateral including the Property, cash flow from the Property, pledges of equity, or the funding of reserves to pay the Preferred Equity investor Returns. | Yes  No |  |
|  | **Preferred Equity Fully Funded** | All Preferred Equity is (or will be) fully funded or contributed on or prior to the Mortgage Loan Effective Date (e.g. the Preferred Equity investment must not be increased over time), unless otherwise approved by Lender. No Preferred Equity investor has the right to increase the size or change the terms of the equity investment for any reason other than for a protective advance to pay debt service or any other amounts due under the Loan Documents. | Yes  No |  |
|  | **No Side Agreements** | The Governing Documents contain the complete terms of the Preferred Equity investor arrangement (e.g. there are no side letters, intercreditor agreements, subordination agreements, recognition agreements, or any other agreements among the Preferred Equity investor, Lender or other parties that relate to the Equity investment or any related payments, cash flows, rights, remedies or triggers). | Yes  No |  |
|  | **No Cross-Collateralization and Cross-Default** | No Equity investment may be tied to a direct or indirect equity investment by the Preferred Equity investor in an entity affiliated with Borrower, Key Principal, or Guarantor unless, if such affiliate owns another property, (i) Fannie Mae also intends to purchase the mortgage secured by such affiliate-owned property and (ii) the Mortgage Loan and the mortgage on such affiliate-owned property will be cross-collateralized or cross-defaulted. | Yes  No |  |
|  | **Limited Rights to Acquire Additional Equity Interests** | There is no right for the Preferred Equity investor to acquire the equity interests of (i) the person or entity with direct or indirect Control of Borrower, or (ii) any other equity owner under the Governing Documents in each case without (x) purchasing such interests for fair market value and (y) satisfying the terms of the Loan Documents. | Yes  No |  |
|  | **Subordination of Guaranty or Indemnity** | Any guaranty or indemnity (environmental or otherwise) related to the Equity structure must be specifically subordinate to all of the terms of the Mortgage Loan and must not include obligations other than obligations that are substantially similar to the guaranteed obligations in the Non-Recourse Guaranty being executed in connection with the Mortgage Loan (or, if no Guaranty is required, in the then-current published Form 6015), or if the Preferred Equity has additional obligations, they must be added to Article 3 of the Loan Agreement or included in the Non-Recourse Guaranty being executed in connection with the Mortgage Loan [Note: Lender must contact the Fannie Mae deal team in the event no Non-Recourse Guaranty is required for the Mortgage Loan and there is a guaranty required in connection with the Equity structure.] | Yes  No |  |
|  | **No Redemption or Buy/Sell** | While the Mortgage Loan is outstanding, no Preferred Equity investor shall have any right (whether upon maturity of a call option, trigger event, open period, specified date, or for any reason) to demand the repayment of the equity investment and/or any accrued equity Returns of the investor via a redemption, the exercise of a buy/sell right, the exercise of a Forced Sale that is not tied to a Permitted Equity Default Trigger (which right may or may not be specifically defined as a “redemption” or “buy/sell” under the Governing Documents). The right of a Key Principal who Controls Borrower as of the Effective Date to (i) force a redemption of the Preferred Equity investor’s interests or (ii) exercise a right to buy the Preferred Equity investor’s interests is permitted while the Mortgage Loan is outstanding. | Yes  No |  |
|  | **No Economic Thresholds** | Other than Mandatory Payments in connection with Mandatory Pay Preferred Equity and Hard Pay Preferred Equity, the right to a Forced Sale or Control Takeover must not be tied to triggers based on the Property’s failure to achieve specific, quantifiable occupancy, NOI, debt service ratio or other economic performance measures. | Yes  No |  |
|  | **No Seller Financing** | The Equity must not be from the seller of the Property or an affiliate of the seller of the Property. | Yes  No |  |
|  | **Ineligible Loans** | The following transaction types are ineligible for (a) Hard Pay Preferred Equity, (b) Mandatory Pay Preferred Equity, and (c) Soft Pay Preferred Equity with any Permitted Equity Default Triggers in Items 1-7 of Part II above:   1. Small Mortgage loans, 2. Seniors Housing Properties, 3. Student Housing Properties, 4. Cooperative Properties, 5. Manufactured Housing Communities, 6. Credit Facilities, 7. Adjustable Rate Mortgage Loans, 8. any Mortgage Loan where the exercise of rights and remedies of the Preferred Equity investor may result in the Mortgage Loan being a Prohibited or a Controlling Conflict Mortgage, and 9. any Mortgage Loan where the Equity is provided by any DUS Lender or its affiliate.   Mandatory Pay Preferred Equity and Hard Pay Preferred Equity are not permitted in connection with the assumption of any Mortgage Loan. | Yes  No |  |
|  | **Miscellaneous** | Lender must determine that the Preferred Equity investment does not contain any other attributes that circumvent the intent set forth in this checklist and the Guide (include any other noteworthy or unusual terms, e.g. rights of first offers to purchase the property or for future financing, etc.). | Yes  No |  |

**EXHIBIT A TO**

**PREFERRED EQUITY CHECKLIST**

**Organizational Chart and Governing Documents**

**[DRAFTING NOTE:**

**Attach to this Exhibit A the current draft of the complete organizational chart of Borrower, including upper tier entities and other owners, that shows Key Principals, Guarantors, the Preferred Equity investor (if any) that sets forth:**

* + **the direct owners in Borrower and/or the Preferred Equity investor (if any) and their respective interests,**
  + **any indirect owners (and any non-member managers) in Borrower that Control Borrower and their respective interests (excluding any Publicly-Held Corporations or Publicly-Held Trusts),**
  + **for any domestic entity and individual (together with such Person’s Immediate Family Members, if an individual), any Person that owns twenty-five percent (25%) or more directly or indirectly (through one or more entities) of the ownership interests in Borrower, and**
  + **for any foreign entity and individual, any Person that owns ten percent (10%) or more directly or indirectly (through one or more entities, taken in the aggregate with all other foreign investors) of the ownership interests in Borrower.**

**The organizational chart must indicate the type of entity and role/title of each entity and individual within the ownership structure (i.e., limited partnership, limited liability company, managing member, manager, general partner, etc.) and (b) the state of organization of each entity (and state of residence of each individual).**

**THE ORGANIZATIONAL CHART MUST INCLUDE THE FOLLOWING STATEMENT** “Except as identified on the Organizational Chart (a) there is no domestic Person (together with such Person’s Immediate Family Members, if an individual), owning twenty-five percent (25%) or more directly or indirectly (through one or more entities) of the ownership interests in Borrower [**INCLUDE IF APPLICABLE:** (excluding any Publicly-Held Corporations or Publicly-Held Trusts)] and (b) there are no foreign individuals or entities (in the aggregate) owning ten percent (10%) or more directly or indirectly (through one or more entities) of the ownership interests in Borrower.

**For any pre-closing review by Fannie Mae, the draft of any Governing Documents and the anticipated organizational chart must also be attached to this Preferred Equity Checklist.**

**In all cases, for delivery of this Preferred Equity Checklist in Folder II of the Delivery Package Table of Contents (Form 6502.Folder II), attach to this Exhibit A all final Governing Documents, along with final complete organizational chart described above.]**

**EXHIBIT B TO**

**PREFERRED EQUITY CHECKLIST**

**Guidance on Acceptable Major Decisions**

The following are examples of acceptable Major Decisions:

1. marketing the Property for sale;
2. transferring interests in the Property or in Borrower;
3. replacing (i) the manager, managing member, general partner or other Person Controlling Borrower or (ii) the property manager or leasing agent of the Property;
4. pledge, assignment or other transfer of all or any portion of the Property or any equity interests in direct and indirect owners of Borrower;
5. issuance of new membership or partnership interests;
6. any modification or amendment of any approved renovation budget, budget timelines, marking program, or draw schedule;
7. approving the annual operating budget and capital improvement budget and any material deviation from either approved annual budgets;
8. other than the creation of trade receivables in the ordinary course of business not in violation of the Loan Documents, making of any loan or extending credit or acting as guarantor or surety to, for or on behalf of any other Person other than the Mortgage Loan;
9. approval of the terms and conditions of any indebtedness (including the Mortgage Loan and any additional advance under, or increase in the outstanding principal balance of, or refinance of, the Mortgage Loan) for money borrowed;
10. entering into any modification, amendment, refinancing, waiver, supplement, termination, extension, renewal or replacement of the Mortgage Loan, unless such amendment is required by the Loan Documents and may be taken by Lender without property owner’s approval;
11. taking any action or inaction that would violate any provisions of the Loan Documents, any material leases or any other material agreements;
12. entering into any agreement that (i) (a) is not terminable upon thirty (30) days’ notice without payment or penalty and (b) has an aggregate value or contract sum equal to or in excess of $100,000, (ii) is a contract or subcontract for structural, foundation, building envelope, major electrical or plumbing work, or (iii) any other construction contract or subcontract, or contract for engineering or architectural services, that has an aggregate contract sum equal to or greater than $50,000, or entering into any material amendment, modification, waiver, or termination of the same;
13. entering into any property management or leasing agreement or any amendment, modification, waiver, or termination of any property management agreement or leasing agreement;
14. entering into any agreement with any affiliate;
15. the institution, settlement, or any other decision with respect to any lawsuit or other legal proceeding in excess of $100,000;
16. the institution, settlement, or any other decision relating to any condemnation relating to the Property;
17. the filing of a bankruptcy petition, making an assignment for the benefit of creditors, applying for a custodian, receiver or trustee, or any other bankruptcy or similar proceeding;
18. settling any dispute with any taxing authority;
19. changing or adopting any method of accounting, profit/loss allocation, or depreciation;
20. designating banks for the deposit of funds;
21. making significant accounting decisions which may have a material adverse effect;
22. selecting, engaging, and terminating accountants;
23. making any decision relating to material environmental matters;
24. electing to restore the Property after a material casualty or condemnation, unless restoration is required by the Loan Documents;
25. making, causing or agreeing to changes in the zoning, subdivision, easements, boundary lines, roads, or other rights-of-way, or any restrictive covenants applicable to the Property;
26. organizational changes, including name changes, the formation of subsidiaries, mergers or consolidations, changing the nature or purpose of the business, amending, modifying or terminating the operating agreement or partnership agreement, or converting from one entity type to another entity type;
27. filing or settlement of insurance claims in excess of $100,000 not in compliance with the requirements of the Loan Documents;
28. making material decisions relating to insurance or fidelity bond coverage;
29. making investments other than as set forth in the approved business plan;
30. making or withholding cash flow or capital event distributions in violation of the Governing Documents or the Loan Documents;
31. approving any Material Commercial Lease, or approving any amendment, modification or termination to a Material Commercial Lease, or consenting to any assignment of or subletting under any Material Commercial Lease unless required in accordance with its terms, or cancelling or terminating any Material Commercial Lease or accepting any surrender thereof;
32. approval of the terms and conditions of any indemnification agreement other than in connection with the Mortgage Loan; and
33. amendment, modification, termination or failure to comply with any special purpose entity provisions.

**EXHIBIT C TO**

**PREFERRED EQUITY CHECKLIST**

**Other Material Financial Terms and Waterfall for Preferred Equity**

1. Summary of the financial terms relating to the Preferred Equity investment.
   1. Amount of the Preferred Equity investment: \_\_\_\_\_\_\_\_\_\_
   2. Amount of the Preferred Equity investment contributed at closing: \_\_\_\_\_\_\_\_\_\_
   3. Total rate of return on the Preferred Equity investment:\_\_\_\_\_\_\_\_\_\_\_
   4. Return based on required Minimum Mandatory Payment, if applicable:\_\_\_\_\_\_\_\_\_\_\_
   5. Amount and terms of any additional fees payable to the Preferred Equity investor or any affiliate in connection with the with the Preferred Equity investment: \_\_\_\_\_\_\_\_\_\_
   6. Additional return paid if there is a failure to comply with the terms of the Governing Documents (i.e. default rate): \_\_\_\_\_\_\_\_\_\_
   7. Any other material financial terms: \_\_\_\_\_\_\_\_\_\_
2. Combined loan to value ratio based on the Fannie Mae Loan and Preferred Equity investment: \_\_\_\_\_\_\_\_\_\_
3. If the Preferred Equity is classified as Mandatory Pay Preferred Equity or Hard Pay Preferred Equity, please provide the combined debt service coverage ratio based on the Fannie Mae Loan and Preferred Equity investment: \_\_\_\_\_\_\_\_\_\_
4. Redemption Date (if applicable): \_\_\_\_\_\_\_\_\_\_
5. Date of required forced sale (if applicable): \_\_\_\_\_\_\_\_\_\_
6. Any other material financial term relating to the Preferred Equity investment not otherwise discussed above: \_\_\_\_\_\_\_\_\_\_
7. Briefly describe the waterfall (see example format below):
   1. Distribution of Net Cash Flow:
      1. first, to the Preferred Equity investor until a \_\_% return is achieved;
      2. second, to the Preferred Equity investor until a cumulative \_\_% return is achieved;
      3. third, to the Key Principal/Sponsor until a \_\_% asset management fee is achieved;
      4. fourth, 50%/50% split between the Preferred Equity investor and the Key Principal/Sponsor until the Preferred Equity investor’s total return and 100% of the Preferred Equity investment balance is re-paid;
      5. fifth, to the Key Principal/Sponsor
   2. Distribution associated with capital events (i.e. refinance or sale):
      1. first, to the Preferred Equity investor until its total return is paid and 100% of it’s the Preferred Equity investment is re-paid;
      2. second, to the Key Principal/Sponsor;
      3. third, to the Key Principal/Sponsor**.**

**EXHIBIT D TO**

**PREFERRED EQUITY CHECKLIST**

**Source and Use Schedule**

The Lender must attach a schedule with sources and uses based on the following example:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Sources** | | |  | **Uses** | | |
| Common Equity | $13,500,000 | 23.3% |  | Purchase Price | $53,000,000 | 91.5% |
| Preferred Equity | $11,409,000 | 19.7% |  | Cap Ex - No Escrow | $3,750,000 | 6.5% |
| First Mortgage | $33,023,755 | 57.0% |  | First Mortgage | $1,182,755 | 2.0% |
| **Total Sources** | **$57,932,755** | **100.0%** |  | **Total Uses** | **$57,932,755** | **100.0%** |

**EXHIBIT E TO**

**PREFERRED EQUITY CHECKLIST**

**Preferred Equity Refinance/Sale Exit Analysis**

The Lender must attach to this Exhibit E a refinance/sale exit analysis that:

* Incorporates the terms of both the Mortgage Loan and the Preferred Equity.
* Demonstrates that the Key Principal/Sponsor will:
  + Maintain a positive equity position in the Property throughout the term of the Mortgage Loan; or
  + Have some other incentive (e.g. continuing cash flow) to remain committed to the Property and its successful operation; and
* Concludes that there will be sufficient cash flow, NCF growth, and residual value to pay off the Mortgage Loan and the Preferred Equity at Mortgage Loan maturity.