

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
_____ DIVISION

DEUTSCHE BANK TRUST COMPANY)
AMERICAS, AS TRUSTEE FOR THE)
REGISTERED HOLDERS OF WELLS)
FARGO COMMERCIAL MORTGAGE)
SECURITIES, INC., COMMERCIAL)
MORTGAGE PASS-THROUGH)
CERTIFICATES, SERIES 2011-C3)
c/o Rialto Capital Advisors, LLC)
200 South Biscayne Blvd., Suite 3550)
Miami, FL 33131)

Case No.: _____

Plaintiff,

v.

PARK PLAZA MALL CMBS, LLC)
2030 Hamilton Place Boulevard)
CBL Center Suite 500)
Chattanooga, Tennessee 37421)

Defendant.

COMPLAINT

Plaintiff Deutsche Bank Trust Company Americas, as Trustee for the Registered Holders of Wells Fargo Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2011-C3 (“Lender” or “Plaintiff”), by and through its undersigned counsel, files this complaint against the above-captioned defendant (“Defendant” or “Borrower”), and for its complaint, respectfully alleges as follows:

INTRODUCTION

1. This is a commercial breach of contract action relating to Plaintiff's loan to Defendant, which is secured by the Park Plaza Mall in Little Rock. Plaintiff filed this action due to the occurrence of a payment default under the Loan Documents (defined below) and the need to protect the Property from potential imminent diminution in value. Plaintiff seeks to exercise its contractual and legal remedies in order to preserve and protect its security interest in the property. To that end, Plaintiff will contemporaneously be filing an emergency motion for the appointment of a receiver to operate and manage the property while the default is ongoing and prior to a foreclosure of the property.

PARTIES, JURISDICTION AND VENUE

2. The real properties and improvements subject to this cause of action are located in Pulaski County, Arkansas, and titled in the name of Defendant.

3. The Court has jurisdiction over the subject matter of this cause of action under Arkansas law, including without limitation, Ark. Const. amend. 80, §§ 6, 19 and Ark. Code Ann. § 16-13-201.

4. The Court has jurisdiction over the persons and parties herein pursuant to Arkansas law, including without limitation, Ark. Code Ann. § 16-4-101(B).

5. Plaintiff is Deutsche Bank Trust Company Americas, as Trustee for the Registered Holders of Wells Fargo Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2011-C3. Deutsche Bank Trust Company Americas is a national banking association with its main office

located at 2000 Avenue of the Stars, 9th Floor, North Tower, Los Angeles, California 90067. Plaintiff is a “real estate mortgage investment conduit” (REMIC) trust created under the Internal Revenue Code, 26 U.S.C. § 860D.

6. Defendant is a Delaware limited liability company having an address of 2030 Hamilton Place Boulevard, CBL Center Suite 500, Chattanooga, Tennessee 37421.

7. Venue is proper in this Court pursuant to Ark. Code Ann. § 16-60-101 because the subject matter of this complaint is situated in Pulaski County.

BACKGROUND

Borrower’s \$99,400,000 Loan Secured by the Park Plaza Mall

8. On or about March 24, 2011, Wells Fargo Bank, National Association (“Original Lender”) made a loan in the amount of \$99,400,000.00 (the “Loan”) to Borrower.

9. The terms and conditions of the Loan are governed by a Loan Agreement dated March 24, 2011 executed by Original Lender and Borrower. A true and correct copy of the Loan Agreement is attached as **Exhibit A**.

10. The Loan is evidenced by that certain Promissory Note dated March 24, 2011 in the original principal amount of \$99,400,000.00 in favor of Original Lender (the “Note”). Original Lender endorsed the note by allonge to the order of Plaintiff. A true and correct copy of the Note, including all allonges and endorsements thereto, is attached hereto as **Exhibit B**.

11. Borrower's obligations under the Note are secured by a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of March 24, 2011 executed by Borrower in favor of Original Lender (the "Mortgage") covering real and personal property located at 6320 West Markham Street, 6000 West Markham Street, and a vacant parking lot identified as Lot C Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and shown on plat recorded as Plat No C-519, in Little Rock, Arkansas (collectively, the "Property"). The real property is more particularly described in the Mortgage and is referred to herein as the "Real Property." A true and correct copy of the Mortgage is attached hereto as **Exhibit C**.

12. The Mortgage also created a security interest in the personal property described therein (the "Personal Property"). Original Lender perfected its interest in the Personal Property by filing that certain UCC Financing Statement naming Borrower as debtor in favor of Original Lender as Secured Party under Filing No. 20111099806 with the Delaware Secretary of State (the "Original Financing Statement"). The Original Financing Statement was assigned to Plaintiff by that certain UCC-3 Financing Statement Amendment filed on August 24, 2011 under Filing No. 20113289892 with the Delaware Secretary of State (the "UCC Assignment"). True and correct copies of the Original Financing Statement and UCC Assignment are attached hereto as **Composite Exhibit D**.

13. On or about July 29, 2011, Original Lender assigned the Loan Agreement, Note, Mortgage, and all other documents evidencing, governing or securing the Loan to the Plaintiff. In connection with such assignment, on or about

July 29, 2011 Original Lender executed and delivered to Plaintiff that certain Assignment of Beneficial Interest in Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Mortgage Assignment"), which Mortgage Assignment was recorded in the Official Records of Pulaski County, Arkansas as document number 2011048229. A true and correct copy of the Mortgage Assignment is attached hereto as **Exhibit E**.

14. The Note, Loan Agreement, Mortgage, Mortgage Assignment, together with certain other documents evidencing, governing or securing the Loan, shall be referred to collectively as the "Loan Documents."

15. As set forth below, Borrower is in default under the terms and conditions of the Loan Documents.

Borrower Defaults Under the Loan Documents

16. Borrower defaulted under the Loan Documents by failing to make the payment due on April 1, 2020 when due or within five (5) days thereafter in accordance with Borrower's obligations under the Loan Documents.

17. Borrower's failure to make the April 1, 2020 payment as and when due is an Event of Default under Section 10.1(a) of the Loan Agreement. Additional Events of Default may have occurred and Plaintiff reserves all rights with respect to such other defaults

18. Pursuant to the Loan Documents, Plaintiff is entitled to several remedies upon occurrence of an Event of Default, including, without limitation, the right to (a) declare the Loan immediately due and payable, (b) conduct a judicial or

non-judicial foreclosure of the Property, (c) collect all rents under all of the leases on the Property, and (d) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice to Borrower, which notice Borrower expressly waives, and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any guarantor or indemnitor under the Loan or any other Person liable for the payment of the Debt and whose appointment Borrower expressly consents to take possession of and to operate the Property and to collect the Rents and to otherwise protect and preserve the Property.

19. On April 7, 2020, Lender sent a Notice of Default to Borrower in connection with the missed payment. A true and correct copy of such notice is attached hereto as **Exhibit F**.

20. As of February 1, 2021, the principal balance of the Loan was \$74,697,248.63 (the "Principal"). Interest, Default Interest, fees, costs, attorneys' fees, and certain other recoverable amounts under the Loan Documents are also due and owing (such amounts, along with the Principal and any and all other amounts due under the Loan Documents, are referred to as the "Indebtedness"). The outstanding Indebtedness as of January 15, 2021 is *approximately* \$86,702,405.18. Interest is accruing on the Loan at the Default Rate set forth in the Loan Documents.

21. Borrower had advised Lender that the performance of the Property does not permit Borrower to maintain and operate the Property and to pay debt service on the Loan, that there is no additional source of capital to fund debt service and operations, and that Borrower will close the mall and abandon the Property if Lender

does not either fund the operations of the Property prior to collection of debt service or cause a receiver to be appointed to take control over the Property.

22. If Borrower were to close the mall and abandon the Property, Lender's interest in the Property would be severely impaired by, among other things, the potential loss of tenant leases that may ensue. This action is being brought in order to protect and preserve that value pending foreclosure or other disposition of the Property.

FIRST CAUSE OF ACTION
(Appointment of Receiver – Contractual Right)

23. Plaintiff incorporates by this reference all other paragraphs of this Complaint as if fully set forth herein.

24. The Loan Documents are valid and binding contracts.

25. Plaintiff has performed all its obligations under the Loan Documents.

26. An Event of Default has occurred under the Loan Documents by virtue of Borrower having failed to make a required payment as and when due thereunder.

27. The Mortgage expressly grants Plaintiff the contractual right to the appointment of a receiver over the Property upon the occurrence of an Event of Default.

28. Accordingly, Plaintiff is entitled to judgment against Borrower appointing a receiver over the Property and other collateral pledged under the Mortgage to: (a) account for and collect the rents and oversee and manage the Property, (b) facilitate the orderly continuation of the business operations of the Property, including the payment of necessary expenses associated with the repair and

upkeep on the Property, (c) lease the Property in a commercially reasonable manner, (d) market the Property for sale, (e) sell the Mortgaged Property, subject to further notice to parties in interest and further permission from the Court, and (f) hold all net rents, income and profits from the operation of the Property, pending a further order of the Court. with the power to protect and preserve the Property, to operate the Property preceding a foreclosure sale, and to collect the rents from the Property and apply the proceeds over and above the cost of the receivership against the indebtedness.

29. Plaintiff is also entitled to attorneys' fees, costs and such other relief as permitted under the Loan Documents, applicable law, or as the Court deems just and equitable.

SECOND CLAIM FOR RELIEF
(Appointment of a Receiver – Ark. Code Ann. 16-117-208)

30. Plaintiff incorporates by this reference all other paragraphs of this Complaint as if fully set forth herein.

31. The Property and the Property's revenue-producing potential are being subjected to and/or are in danger of loss, dissipation or material injury.

32. Borrower has irrevocably consented to the appointment of a receiver under the Loan Documents upon occurrence of an Event of Default under such Loan Documents.

33. Additionally, to prevent waste, loss, dissipation and/or impairment, it is necessary that a receiver be appointed immediately to: (a) account for and collect the rents and oversee and manage the Property, (b) facilitate the orderly continuation of

the business operations of the Property, including the payment of necessary expenses associated with the repair and upkeep on the Property, (c) lease the Property in a commercially reasonable manner, (d) market the Property for sale, (e) sell the Mortgaged Property, subject to further notice to parties in interest and further permission from the Court, and (f) hold all net rents, income and profits from the operation of the Property, pending a further order of the Court.

34. Without a receiver for the Property, Borrower may operate the Property in a manner detrimental to Plaintiff's interests.

35. As a result of the foregoing, the Court immediately should appoint a receiver for the Property with all the general powers of a court-appointed receiver including, but not limited to, the powers set forth herein.

36. Plaintiff is also entitled to attorneys' fees, costs and such other relief as permitted under the Loan Documents, applicable law, or as the Court deems just and equitable.

THIRD CLAIM FOR RELIEF (Breach of Promissory Note)

37. Plaintiff incorporates by this reference all other paragraphs of this Complaint as if fully set forth herein.

38. Plaintiff is the owner and holder of the Note.

39. Plaintiff has been damaged as a result of Borrower's breach of the obligations under the Note.

40. Borrower owes Plaintiff the Indebtedness.

41. Plaintiff is also entitled to attorneys' fees, costs and such other relief as permitted under the Loan Documents, applicable law, or as the Court deems just and equitable.

**FOURTH CLAIM FOR RELIEF
(Foreclosure of Mortgage)**

42. Plaintiff incorporates by this reference all other paragraphs of this Complaint as if fully set forth herein.

43. Plaintiff is the present owner and holder of the Note, the Mortgage and other Loan Documents.

44. The Real Property described in the Mortgage is now owned by Borrower and Borrower presently holds possession of the Real Property.

45. Borrower's default under the Loan Documents, including the Note and the Mortgage, entitles Plaintiff to foreclose the lien of the Mortgage on the Real Property.

46. Plaintiff is also entitled to attorneys' fees, costs and such other relief as permitted under the Loan Documents, applicable law, or as the Court deems just and equitable.

47. Plaintiff or its assignee, is entitled to a decree of foreclosure to foreclose its interest in and to the Real Property and to liquidate the Real Property according to the Note and Mortgage.

48. If the judgment awarded herein is not paid within ten (10) days of the entry of the judgment and decree of foreclosure, Plaintiff, or its assignee, is entitled to foreclose and sell the Real Property by judicial sale to satisfy the judgment.

Plaintiff seeks the appointment of a Commissioner to conduct the sale of the Real Property. The foreclosure sale should be held for cash or credit terms up to ninety (90) days following the date of the sale or as otherwise allowed by Arkansas law, except as to Plaintiff, or its assignee, either of which is allowed to offset bid against the judgment awarded herein. Plaintiff further seeks to sell the Real Property to the highest bidder with prompt performance due, but if performance is not made, Plaintiff, or its assignee, seeks entitlement to enforce performance or to take the second highest bid (and so on until the Real Property is sold to a bidder), or if no second highest bid exists as to the Real Property, to reschedule a sale without further notice.

49. Plaintiff, or its assignee, is entitled to a writ of assistance if possession of the Real Property is not relinquished upon entry of judgment herein and asks the Court to retain jurisdiction to issue a writ of assistance so that Plaintiff, its assignee, and/or any purchaser at the foreclosure sale can gain possession of the Real Property.

50. The foreclosure sale proceeds will be applied to the judgment awarded herein after payment of the fees to the Commissioner appointed to sell the Real Property.

**FIFTH CLAIM FOR RELIEF
(Foreclosure of Security Interest)**

51. Plaintiff incorporates by this reference all other paragraphs of this Complaint as if fully set forth herein.

52. Plaintiff is the present owner and holder of the Note, the Mortgage, the Original Financing Statement, the UCC Assignment, and the other Loan Documents.

53. Borrower's default under the Loan Documents, including the Note and the Mortgage, entitles Plaintiff to foreclose its security interest in the Personal Property collateral described in the Mortgage, the Original Financing Statement, and the UCC Assignment.

54. Plaintiff is also entitled to attorneys' fees, costs and such other relief as permitted under the Loan Documents, applicable law, or as the Court deems just and equitable.

55. The Mortgage provides that in the event of a default, Plaintiff has the right to take possession of the Personal Property and Borrower is obligated to make the Personal Property available to Plaintiff. As such, Plaintiff demands that the Personal Property be delivered to its possession by Borrower.

56. Borrower wrongfully possesses the Personal Property, the right of possession by Borrower having terminated upon its default. Plaintiff has not consented to Borrower's continued possession of the Personal Property.

57. Plaintiff is entitled to immediate possession of the Personal Property so that it can be disposed of in accordance with the Uniform Commercial Code and the proceeds applied to the amount of the debt owed.

WHEREFORE, Plaintiff seeks judgment against Defendant as follows:

A. On Plaintiff's First Claim for Relief, for judgment against Defendant appointing a receiver over the Property with all the general powers of a court-appointed receiver including, but not limited to, the powers set forth herein.

B. On Plaintiff's Second Claim for Relief, for judgment against Defendant appointing a receiver over the Property with all the general powers of a court-appointed receiver including, but not limited to, the powers set forth herein.

C. On Plaintiff's Third Claim for Relief, for judgment against Defendant awarding Plaintiff all amounts due under the Note, plus its attorneys' fees, costs, charges, and other expenses incurred as provided under the Loan Documents.

D. On Plaintiff's Fourth Claim for Relief, for judgment against Defendant foreclosing the lien of the Mortgage, declaring that Plaintiff's interest in the Property is superior to any and all interests claimed by Defendant with respect to the Property, awarding Plaintiff its attorneys' fees, costs, charges, and other expenses incurred as provided under the Loan Documents. If the judgment awarded herein is not paid within ten (10) days of the entry of the judgment and decree of foreclosure, Plaintiff, or its assignee, is entitled to foreclose and sell the Real Property by judicial sale to satisfy the judgment. Plaintiff seeks the appointment of a Commissioner to conduct the sale of the Real Property. The foreclosure sale should be held for cash or credit terms up to ninety (90) days following the date of the sale or as otherwise allowed by Arkansas law, except as to Plaintiff, or its assignee, either of which is allowed to offset bid against the judgment awarded herein. Plaintiff further seeks to sell the Real Property to the highest bidder with prompt performance due, but if performance is not made, Plaintiff, or its assignee, seeks entitlement to enforce performance or to take the second highest bid (and so on until the Real Property is sold to a bidder), or if no second highest bid exists as to the Real Property, to reschedule a sale without further notice.

E. On Plaintiff's Fifth Claim for Relief, for judgment against Defendant foreclosing the Plaintiff's security interest in the Personal Property, declaring that Plaintiff's interest in the Personal Property is superior to any and all interests claimed by Defendant with respect to the Personal Property, awarding Plaintiff its attorneys' fees, costs, charges, and other expenses incurred as provided under the Loan Documents, and ordering that Plaintiff is entitled to immediate possession of the Personal Property so that it can be disposed of in accordance with the Mortgage and the Uniform Commercial Code with the sale proceeds applied to satisfy the Indebtedness.

F. That Plaintiff be awarded such other and further relief as the Court deems just and proper.

Respectfully submitted:

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of Wells Fargo Commercial Mortgage Securities,
Inc., Commercial Mortgage Pass-Through
Certificates, Series 2011-C3*

LOAN AGREEMENT

Dated as of March 24, 2011

Between

PARK PLAZA MALL CMBS, LLC,
as Borrower

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Lender

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LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of March 24, 2011 (as amended, restated, replaced, supplemented or otherwise modified from time to time, this “**Agreement**”), between **WELLS FARGO BANK, NATIONAL ASSOCIATION**, having an address at Wells Fargo Center, 1901 Harrison Street, 2nd Floor, Oakland, California 94612 (together with its successors and/or assigns, “**Lender**”) and **PARK PLAZA MALL CMBS, LLC**, a Delaware limited liability company, having an address at c/o CBL & Associates Properties, Inc., 2030 Hamilton Place Boulevard, CBL Center, Suite 500, Chattanooga, Tennessee 37421 (together with its successors and/or assigns, “**Borrower**”).

RECITALS:

Borrower desires to obtain the Loan (defined below) from Lender.

Lender is willing to make the Loan to Borrower, subject to and in accordance with the terms of this Agreement and the other Loan Documents (defined below).

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

ARTICLE 1.

DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1 Definitions.

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

“**30/360 Basis**” shall mean on the basis of a 360-day year consisting of 12 months of 30 days each.

“**Acceptable LLC**” shall mean a limited liability company formed under Delaware or Maryland law which (i) has at least one springing member, which, upon the dissolution of all of the members or the withdrawal or the disassociation of all of the members from such limited liability company, shall immediately become the sole member of such limited liability company, and (ii) otherwise meets the Rating Agency criteria then applicable to such entities.

“**Accounts**” shall have the meaning set forth in the Cash Management Agreement.

“**Act**” shall have the meaning set forth in Section 5.1(c) hereof.

“**Actual/365 Basis**” shall mean on the basis of a 365-day year and charged on the basis of actual days elapsed for any whole or partial month in which interest is being calculated.

“Affiliate” shall mean, as to any Person, any other Person that, directly or indirectly, owns more than forty percent (40%) of, is in control of, is Controlled by or is under common ownership or Control with such Person or is a director or officer of such Person or of an Affiliate of such Person.

“Affiliated Manager” shall mean any managing agent of the Property in which Borrower, Guarantor, Sponsor, any SPE Component Entity (if any) or any Affiliate of such entities has, directly or indirectly, any legal, beneficial or economic interest.

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

“Alteration Threshold” shall mean an amount equal to five percent (5%) of the outstanding principal balance of the Loan.

“Annual Budget” shall have the meaning set forth in Section 4.12(a)(v).

“Applicable Law” shall mean all applicable federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting Borrower or the Property or any part thereof, or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, including, without limitation, the Americans with Disabilities Act of 1990, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting Borrower or the Property or any part thereof, including, without limitation, any which may (i) require repairs, modifications or alterations in or to the Property or any part thereof, or (ii) in any way limit the use and enjoyment thereof.

“Approved Bank” shall mean (a) a bank or other financial institution which has the Required Rating, (b) if a Securitization has not occurred, a bank or other financial institution acceptable to Lender or (c) if a Securitization has occurred, a bank or other financial institution with respect to which Lender shall have received a Rating Agency Confirmation.

“Approved ID Provider” shall mean each of CT Corporation, Corporation Service Company, National Registered Agents, Inc., Wilmington Trust Company, Stewart Management Company and Lord Securities Corporation; provided, that, additional national providers of Independent Directors may be deemed added to the foregoing hereunder to the extent approved in writing by Lender and the Rating Agencies.

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

“Award” shall mean any compensation paid by any Governmental Authority in connection with a Condemnation in respect of all or any part of the Property.

“Bankruptcy Code” shall mean Title 11 of the United States Code entitled “Bankruptcy”, as amended from time to time, and any successor statute or statutes and all rules and regulations from time to time promulgated thereunder, and any comparable foreign laws relating to bankruptcy, insolvency or creditors’ rights.

“Bloodworth Complaint” shall mean that certain Summons in a Civil Action by Jonna Bloodworth, as plaintiff, v CBL/Park Plaza Mall, LLC (predecessor-in-interest to Borrower), civil action number: 410-CV-58JMM, filed as of May 24, 2010 in the United States District Court for the Eastern District of Arkansas.

“Borrower Party” shall mean any Person acting on behalf of or at the direction of Borrower, SPE Component Entity (if any), Guarantor and/or Sponsor.

“Borrower’s Operating Agreement” shall mean that certain Limited Liability Company Agreement of Borrower, dated as of the date hereof.

“Business Day” shall mean any day other than a Saturday, Sunday or any other day on which commercial banks in the State of California are not open for business.

“Capital Expenditure” shall have the meaning set forth on Exhibit A attached hereto and made a part hereof.

“Cash Management Account” shall have the meaning set forth in the Cash Management Agreement.

“Cash Management Agreement” shall mean that certain Cash Management Agreement of even date herewith among Lender, Borrower and Manager.

“Casualty” shall have the meaning set forth in Section 7.2.

“Casualty Consultant” shall have the meaning set forth in Section 7.4 hereof.

“Closing Date” shall mean the date of the funding of the Loan.

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

“Constituent Members” shall have the meaning set forth in Section 5.2(b).

“Control” shall mean the power to direct the management and policies of an entity, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise.

“Creditors Rights Laws” shall mean any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship,

arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

“DBRS” shall mean DBRS, Inc.

“Debt” shall mean the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, this Agreement or the other Loan Documents, including, without limitation, the payment of all sums advanced and costs and expenses incurred (including unpaid or unreimbursed servicing and special servicing fees) by Lender in connection with the enforcement and/or collection of the Debt or any part thereof.

“Debt Service” shall mean, for any period, the aggregate of all principal and/or interest payments and all other amounts that accrue or are due and payable in accordance with the Loan Documents during such period.

“Debt Yield” shall mean, as of any date of determination, a ratio in which:

- (i) the numerator is the Underwritten NOI as of such date; and
- (ii) the denominator is the outstanding principal amount of the Loan as of such date of determination.

“Debt Yield Condition” shall mean the Debt Yield equals or exceeds 10.63%.

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

“Default Rate” shall mean, with respect to the Loan, a rate per annum equal to the lesser of (i) the Maximum Legal Rate, or (ii) the sum of (a) the Interest Rate and (b) three percent (3.00%).

“Defeasance Approval Item” shall have the meaning set forth in Section 2.8 hereof.

“Defeasance Collateral Account” shall have the meaning set forth in Section 2.8 hereof.

“Designated Release Parcel” shall mean an unimproved portion of the Property identified on Schedule VI attached hereto.

“Disclosure Document” shall have the meaning set forth in Section 11.2 hereof.

“Eligible Account” shall mean a separate and identifiable account from all other funds held by the holding institution that is either (a) an account or accounts maintained with a federal or state-chartered depository institution or trust company which complies with the definition of Eligible Institution or (b) a segregated trust account or accounts maintained with a federal or state chartered depository institution or trust company acting in its fiduciary capacity which, in the case of a state chartered depository institution or trust company, is subject to regulations

substantially similar to 12 C.F.R. §9.10(b), having in either case a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by federal and state authority. An Eligible Account will not be evidenced by a certificate of deposit, passbook or other instrument.

“Eligible Institution” shall mean (a) a depository institution or trust company insured by the Federal Deposit Insurance Corporation, (i) the short term unsecured debt obligations or commercial paper of which are rated at least “A-1” (or its equivalent) from each of the Rating Agencies in the case of accounts in which funds are held for thirty (30) days or less and (ii) the senior unsecured debt obligations of which are rated at least “A-” (or its equivalent) from each of the Rating Agencies in the case of accounts in which funds are held for more than thirty (30) days or (b) such other depository institution otherwise approved by the Rating Agencies from time-to-time.

“Embargoed Person” shall have the meaning set forth in Section 3.28 hereof.

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

“Environmental Laws” shall have the meaning set forth in the Environmental Indemnity.

“Equity Collateral” shall have the meaning set forth in Section 11.6 hereof.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as the same may heretofore have been or shall be amended, restated, replaced or otherwise modified.

“Event of Default” shall have the meaning set forth in Section 10.1 hereof.

“Exchange Act” shall have the meaning set forth in Section 11.2 hereof.

“Exchange Act Filing” shall mean any filing under or pursuant to the Exchange Act in connection with or relating to a Securitization.

“Exculpated Parties” shall have the meaning set forth in Section 13.1 hereof.

“Family Member” shall mean, with respect to any natural person, the lineal or legally adopted descendants of such person, as well as the spouse, nieces and nephews of such person.

“Fitch” shall mean Fitch, Inc.

“Flood Insurance Acts” shall have the meaning set forth in Section 7.1 hereof.

“GAAP” shall mean generally accepted accounting principles in the United States of America as of the date of the applicable financial report.

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

“Guarantor” shall mean CBL & Associates Properties, Inc., a Delaware corporation.

“Guaranty” shall mean that certain Guaranty of Recourse Obligations executed by Guarantor and dated as of the date hereof.

“Hazardous Substances” shall have the meaning set forth in the Environmental Indemnity.

“Improvements” shall have the meaning set forth in the granting clause of the Security Instrument.

“Indebtedness” shall mean, for any Person, without duplication: (i) all indebtedness of such Person for borrowed money, for amounts drawn under a letter of credit, or for the deferred purchase price of property for which such Person or its assets is liable, (ii) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person would be liable if such amounts were advanced thereunder, (iii) all amounts required to be paid by such Person as a guaranteed payment to partners or a preferred or special dividend, including any mandatory redemption of shares or interests, (iv) all indebtedness guaranteed by such Person, directly or indirectly, (v) all obligations under leases that constitute capital leases for which such Person is liable, (vi) all obligations of such Person under interest rate swaps, caps, floors, collars and other interest hedge agreements, in each case whether such Person is liable contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss, and (vii) any other similar amounts.

“Indemnified Parties” shall mean (a) Lender, (b) any successor owner or holder of the Loan or participations in the Loan, (c) any Servicer or prior Servicer of the Loan, (d) any Investor or any prior Investor in any Securities, (e) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any Investor or other third party, (f) any receiver or other fiduciary appointed in a foreclosure or other Creditors Rights Laws proceeding, (g) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (h) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties’ assets and business) in all cases whether during the term of the Loan or as part of or following a foreclosure of the Loan.

“Independent Director” shall have the meaning set forth in Section 5.2 hereof.

“Insurance Premiums” shall have the meaning set forth in Section 7.1 hereof.

“Interest Accrual Period” shall mean the period beginning on the first day of each calendar month during the term of the Loan and ending on (but including) the last day of such calendar month.

“Interest Bearing Reserve Funds” shall mean, collectively, the Replacement Reserve Funds, Tax and Insurance Funds, the Ground Rent Reserve Funds and the Leasing Reserve Funds.

“Interest Rate” shall mean a rate per annum equal to five and two hundred seventy-five thousandths percent (5.275%).

“Interest Shortfall” shall have the meaning set forth in Section 2.7 hereof.

“Investor” shall mean any investor or potential investor in the Loan (or any portion thereof or interest therein) in connection with a Securitization of the Loan (or any portion thereof or interest therein).

“IRS Code” shall mean the Internal Revenue Code of 1986, as amended from time to time or any successor statute.

“Land” shall have the meaning set forth in the Security Instrument.

“Lease” shall mean any and all leases, subleases, rental agreements and other agreements whether or not in writing affecting the use, enjoyment or occupancy of the Land and/or the Improvements heretofore or hereafter entered into and all extensions, amendments and modifications thereto, whether before or after the filing by or against Borrower of any petition for relief under Creditors Rights Laws.

“Leasing Reserve Funds” shall have the meaning set forth in Section 8.3 hereof.

“Leasing Reserve Monthly Deposit” shall have the meaning set forth in Section 8.3 hereof.

“Letter of Credit” shall mean an irrevocable, auto-renewing, unconditional, transferable, clean sight draft standby letter of credit having an initial term of not less than one (1) year and with automatic renewals for one (1) year periods (unless the obligation being secured by, or otherwise requiring the delivery of, such letter of credit is required to be performed at least thirty (30) days prior to the initial expiry date of such letter of credit), for which Borrower shall have no reimbursement obligation and which reimbursement obligation is not secured by the Property or any other property pledged to secure the Note, in favor of Lender and entitling Lender to draw thereon based solely on a statement that Lender has the right to draw thereon executed by an officer or authorized signatory of Lender. A Letter of Credit must be issued by an Approved Bank. If at any time (a) the institution issuing any such Letter of Credit shall cease to be an Approved Bank or (b) if the Letter of Credit is due to expire prior to the termination of the event or events which gave rise to the requirement that Borrower deliver the Letter of Credit to Lender, Lender shall have the right to draw down the same in full and hold the proceeds thereof, unless Borrower shall deliver a replacement Letter of Credit from an Approved Bank within (i) as to (a) above, twenty (20) days after Lender delivers written notice to Borrower that the institution issuing the Letter of Credit has ceased to be an Approved Bank or (ii) as to (b) above, within ten (10) days prior to the expiration date of said Letter of Credit. Borrower’s delivery of any Letter of Credit hereunder shall, at Lender’s option, be conditioned upon Lender’s receipt of a New Non-Consolidation Opinion relating to such Letter of Credit.

“Liabilities” shall have the meaning set forth in Section 11.2 hereof.

“License Agreement” shall mean an occupancy agreement pursuant to which Borrower licenses space at the Property to a licensee, which agreement customarily has a term of not more than one year, but is always terminable at any time upon no more than thirty (30) days written notice to the licensee.

“Loan” shall mean the loan made by Lender to Borrower pursuant to this Agreement.

“Loan Bifurcation” shall have the meaning set forth in Section 11.1 hereof.

“Loan Documents” shall mean, collectively, this Agreement, the Note, the Security Instrument, the Environmental Indemnity, the Assignment of Management Agreement, the Cash Management Agreement, the Guaranty and all other documents executed and/or delivered in connection with the Loan.

“Lockout Release Date” shall mean shall have the meaning set forth in Section 2.7(a) hereof.

“Losses” shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to legal fees and other costs of defense).

“Major Lease” shall mean (i) any Lease which, individually or when aggregated with all other Leases with the same Tenant or its Affiliate, accounts for 24,000 or more rentable square feet at the Property of buildable area, (ii) any Lease which contains any option, offer, right of first refusal or other similar entitlement to acquire all or any portion of the Property, (iii) [Intentionally omitted], (iv) any instrument guaranteeing or providing credit support for any Lease meeting the requirements of (i) and/or (ii) above, (v) any Lease that is entered into with an Affiliate of Borrower, Sponsor or Guarantor or (vi) any Lease that is entered into, amended, modified, altered or changed during the continuance of an Event of Default.

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

“Manager” shall mean CBL & Associates Management, Inc., a Delaware corporation or such other entity selected as the manager of the Property in accordance with the terms of this Agreement or the other Loan Documents.

“Material Adverse Effect” shall mean a material adverse effect on (i) the Property, (ii) the business, profits, prospects, management, operations or condition (financial or otherwise) of Borrower, Guarantor, Sponsor or the Property, (iii) the enforceability, validity, perfection or priority of the lien of the Security Instrument or the other Loan Documents, (iv) the ability of Borrower to perform its obligations under the Security Instrument or the other Loan Documents or (v) the ability of Guarantor to perform its obligations under the Guaranty.

“Maturity Date” shall mean April 1, 2021, or such other date on which the final payment of principal of the Note becomes due and payable as therein or herein provided, whether at such stated maturity date, by declaration of acceleration, or otherwise.

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

“Member” is defined in Section 5.1 hereof.

“Mezzanine Borrower” shall have the meaning set forth in Section 11.6 hereof.

“Mezzanine Option” shall have the meaning set forth in Section 11.6 hereof.

“Minimum Disbursement Amount” shall mean Fifteen Thousand and No/100 Dollars (\$15,000).

“Monthly Debt Service Payment Amount” shall mean a constant monthly payment of \$597,119.16.

“Monthly Insurance Deposit” shall have the meaning set forth in Section 8.6 hereof.

“Monthly Payment Date” shall mean the first (1st) day of every calendar month occurring during the term of the Loan.

“Monthly Tax Deposit” shall have the meaning set forth in Section 8.6 hereof.

“Moody’s” shall mean Moody’s Investor Service, Inc.

“Net Proceeds” shall mean: (i) the net amount of all insurance proceeds payable as a result of a Casualty to the Property, after deduction of reasonable costs and expenses (including, but not limited to, reasonable attorneys’ fees), if any, in collecting such insurance proceeds, or (ii) the net amount of the Award, after deduction of reasonable costs and expenses (including, but not limited to, reasonable attorneys’ fees), if any, in collecting such Award.

“Net Proceeds Deficiency” shall have the meaning set forth in Section 7.4 hereof.

“New Manager” shall have the meaning set forth in Section 4.15 hereof.

“New Non-Consolidation Opinion” shall mean a substantive non-consolidation opinion provided by outside counsel acceptable to Lender and the Rating Agencies and otherwise in form and substance acceptable to Lender and the Rating Agencies.

“Non-Conforming Policy” shall have the meaning set forth in Section 7.1 hereof.

“Non-Consolidation Opinion” shall mean that certain substantive non-consolidation opinion delivered to Lender by Husch Blackwell LLP in connection with the closing of the Loan.

“Note” shall mean that certain Promissory Note of even date herewith in the principal amount of \$99,400,000.00, made by Borrower in favor of Lender, as the same may be amended, restated, replaced, extended, renewed, supplemented, severed, split, or otherwise modified from time to time.

“OFAC” shall have the meaning set forth in Section 3.28 hereof.

“Officer’s Certificate” shall mean a certificate delivered to Lender by Borrower which is signed by Responsible Officer of Borrower.

“Operating Expenses” shall have the meaning set forth on Exhibit A attached hereto and made a part hereof.

“Operating Partnership” shall mean CBL & Associates Limited Partnership, a Delaware limited partnership.

“Operating Revenues” shall have the meaning set forth on Exhibit A attached hereto and made a part hereof.

“Other Charges” shall mean all maintenance charges, impositions other than Taxes, and any other charges, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Property, now or hereafter levied or assessed or imposed against the Property or any part thereof.

“Patriot Act” shall have the meaning set forth in Section 3.29 hereof.

“Permitted Encumbrances” shall mean collectively, (a) the lien and security interests created by this Agreement and the other Loan Documents, (b) all liens, encumbrances and other matters disclosed in the Title Insurance Policy, (c) liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, (d) any worker’s, mechanics’ or similar liens on the Property, provided any such in not in imminent danger of foreclosure and such lien is being satisfied, discharged or bonded in accordance with the requirements of the Security Instrument and Sections 4.16 and 10.1 hereof, (e) rights of Tenants as tenants only pursuant to Leases in effect as of the date hereof and Leases entered into in accordance with the terms and provisions of this Agreement, (f) Permitted Equipment Leases and (g) such other title and survey exceptions as Lender has approved or may approve in writing in Lender’s reasonable discretion.

“Permitted Equipment Leases” shall mean equipment leases or other similar instruments entered into with respect to the Personal Property; provided, that, in each case, such equipment leases or similar instruments (i) are entered into on commercially reasonable terms and conditions in the ordinary course of Borrower’s business and (ii) relate to Personal Property which is (A) used in connection with the operation and maintenance of the Property in the ordinary course of Borrower’s business and (B) readily replaceable without material interference or interruption to the operation of the Property.

“Permitted Indebtedness” shall mean (A) the Debt, (B) trade and operational indebtedness incurred in the ordinary course of business with trade creditors, provided such indebtedness is (1) unsecured, (2) not evidenced by a note, (3) on commercially reasonable terms

and conditions, and (4) due not more than sixty (60) days past the date incurred and paid on or prior to such date, (C) tenant allowances and capital improvements required under Leases approved by Lender and that are paid on or prior to the date when due and/or (D) Permitted Equipment Leases; provided however, the aggregate amount of the indebtedness described in (B), (C) and (D) shall not exceed at any time four percent (4%) of the outstanding principal amount of the Debt; provided, however, that no Indebtedness other than the Debt may be secured (subordinate or pari passu) by the Property.

“Permitted Parent Pledge” shall mean a pledge to a Permitted Pledge Bank by Sponsor of its right to receive distributions from Borrower provided that (1) such pledge is to secure a loan or line of credit secured by the substantial assets of such Person in addition to the direct and/or indirect economic interests held by such Person in Borrower, (2) the repayment of such loan or line of credit is not specifically tied solely to the cash flow of the Property, (3) such pledge is solely an economic pledge secured only by the pledgor’s rights to receive economic distributions with respect to the pledged interests applicable, (4) such pledge does not include any rights of any such pledgor to participate in management or Control of Borrower, Sponsor or any Guarantor and (5) the pledgees under such pledges shall not have any right to succeed to the equity interest of the pledgor, or become a member, partner or shareholder of the Person that is the issuer of the applicable pledged interest pursuant to such pledge and such pledge when exercised will not result in a change of Control of Borrower, Sponsor or any Guarantor.

“Permitted Pledge Bank” means a commercial bank or a financial institution with significant real estate experience involving properties similar to the property with a long term unsecured debt rating of no less than “A” by S&P and “A2” by Moody’s.

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

“Personal Property” shall have the meaning set forth in the granting clause of the Security Instrument.

“Policies” shall have the meaning specified in Section 7.1 hereof.

“Prohibited Transfer” shall have the meaning set forth in Section 6.2 hereof.

“Property” shall have the meaning set forth in the Security Instrument.

“Property Condition Report” shall mean that certain Property Condition Assessment Report dated as of January 6, 2011 and prepared by Partner Engineering and Science, Inc., resulting from the site assessment of the Property, delivered and acceptable to Lender in connection with the Loan.

“Property Documents” shall mean, individually and/or collectively, as the context may require, each REA.

“Property Document Event” shall mean any event which would, directly or indirectly, (i) cause a termination right, right of first refusal, right of first offer or any other similar right, and/or cause any termination fees to be due under the Property Documents or (ii) cause a Material Adverse Effect; provided, however, any of the foregoing shall not be deemed a Property Document Event to the extent Lender’s prior written consent is obtained with respect to the same.

“Prudent Lender Standard” shall, with respect to any matter, be deemed to have been met if the matter in question (i) prior to a Securitization, is reasonably acceptable to Lender and (ii) after a Securitization, would be acceptable to a prudent lender of securitized commercial mortgage loans.

“Qualified Equityholder” means (i) CBL & Associates Limited Partnership or a wholly owned subsidiary of CBL & Associates Limited Partnership (and for the avoidance of doubt, any such subsidiary shall be a Qualified Equityholder only for so long as it shall continue to be wholly owned, directly or indirectly, by CBL & Associates Limited Partnership), (ii) a bank, saving and loan association, investment bank, insurance company, trust company, commercial credit corporation, pension plan, pension fund or pension advisory firm, mutual fund, government entity or plan, real estate company, investment fund or an institution substantially similar to any of the foregoing, provided in each case under this clause (ii) that such Person (x) has total assets in excess of \$750,000,000 and capital/statutory surplus or shareholder’s equity in excess of \$350,000,000 (in both cases, exclusive of the Property), and (y) is regularly engaged in the business of owning and operating comparable properties in major metropolitan areas, (iii) any person (a) with a long term unsecured debt rating of no less than “BBB+” by S&P (or comparable investment grade rating from the other Rating Agencies) and (b) (1) that owns or operates, together with its Affiliates, at least twenty (20) regional malls or strip centers containing comparable retail space totaling at least 20,000,000 square feet, (2) that has a net worth as of a date no more than six (6) months prior to the date of determination of at least \$350,000,000 and (3) that controls real estate equity assets of at least \$750,000,000, or (iv) any other Person approved by Lender and for which Lender has received a Rating Agency Confirmation; provided, however, no Person shall be deemed to be a Qualified Equityholder if (y) such Person (or any other Person owned or Controlled by such Person or Affiliated with such Person) has been, within the last ten (10) years, (I) subject to any material, uncured event of default in connection with a loan financing which resulted in litigation or an acceleration of an indebtedness held by Lender or any other secondary market or institutional lender or (II) the subject of any action or proceeding under Creditor’s Rights Laws; or (z) any of the principals or entities which Control such Person or own a material direct or indirect equity interest in such Person have ever been convicted of a felony.

“Qualified Insurer” shall have the meaning set forth in Section 7.1 hereof.

“Qualified Manager” shall have the meaning set forth in the Assignment of Management Agreement.

“Qualifying Merger” shall mean any acquisition by, merger with or consolidation with or into, or sale of substantially all of the assets to (any such transaction, the

“Merger”) an entity (the **“Merged Entity”**) in which each of the following conditions have been satisfied as of the date of consummation of the Merger:

- (i) the Merged Entity owns, directly or indirectly, all or substantially all of the assets which Sponsor owned immediately prior to the effective date of the Merger (it being understood that the Merged Entity shall comply with equity ownership requirements of Sponsor set forth in Section 6.3(C) hereof);
- (ii) an Affiliate of such Merged Entity which is a Qualified Equityholder (or in the event the Merged Entity is a Qualified Equityholder, the Merged Entity), agrees in writing to assume all of the obligations of Guarantor under the Loan Documents, without limitation, the Guaranty and Environmental Indemnity, or to deliver a substitute or replacement guaranty and indemnity on the same terms and conditions as the Guaranty and Environmental Indemnity.
- (iii) Control of the Merged Entity and at least fifty-one percent (51%) of the direct or indirect ownership of the Merged Entity is vested in (A) a Qualified Equityholder, (B) the executive management of Sponsor (as the same existed immediately prior to the Merger), or (C) any other Person with respect to whom a Ratings Agency Confirmation has been obtained;
- (iv) the conditions set forth in Section 6.3(D), (E), (F)(2), (G) and (H) have been satisfied; and
- (v) Lender shall have received no less than ten (10) days prior written notice of such Merger.

“Qualifying Lease” shall have the meaning set forth on Exhibit A attached hereto and made a part hereof.

“Rating Agencies” shall mean each of S&P, Moody’s, Fitch, DBRS, and Realpoint, or any successor thereto, or any other nationally-recognized statistical rating agency which has been approved by Lender; provided, that, the foregoing shall only be deemed to be included within the definition of “Rating Agencies” hereunder to the extent that the same have rated (or are reasonably anticipated by Lender to rate) the Securities.

“Rating Agency Confirmation” shall mean a written affirmation from each of the Rating Agencies (obtained at Borrower’s sole cost and expense) that the credit rating of the Securities by such Rating Agency immediately prior to the occurrence of the event with respect to which such Rating Agency Confirmation is sought will not be qualified, downgraded or withdrawn as a result of the occurrence of such event, which affirmation may be granted or withheld in such Rating Agency’s sole and absolute discretion.

“REA” shall mean, individually and/or collectively (as the context may require), each reciprocal easement, covenant, condition and restriction agreement or similar agreement affecting the Property as more particularly described on Schedule IV hereto and any future reciprocal easement or similar agreement affecting the Property entered into in accordance with

the applicable terms and conditions hereof, as the same may be amended, modified or supplemented from time to time.

“REA Amendment” shall have the meaning set forth in Section 2.9(a)(xv)(F).

“Realpoint” shall mean Realpoint LLC.

“Registrar” shall have the meaning set forth in Section 11.7 hereof.

“Registration Statement” shall have the meaning set forth in Section 11.2 hereof.

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

“Related Loan” shall mean a loan made to an Affiliate of Borrower, or secured by a Related Property, that is included with the Loan (or a portion of the Loan) in a Securitization.

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

“Release Date” shall mean the earlier to occur of (i) the third anniversary of the Closing Date and (ii) the date that is two (2) years from the “startup day” (within the meaning of Section 860G(a)(9) of the IRS Code) of the REMIC Trust established in connection with the last Securitization involving any portion of or interest in the Loan.

“Release Parcel REA” shall have the meaning set forth in Section 2.9(a)(xv)(F).

“Remaining Property” shall have the meaning set forth in Section 2.9(a)(ix).

“REMIC Requirements” shall mean any applicable legal requirements relating to any REMIC Trust (including, without limitation, any constraints, rules and/or other regulations and/or requirements relating to the servicing, modification and/or other similar matters with respect to the Loan (or any portion thereof and/or interest therein)).

“REMIC Trust” shall mean a “real estate mortgage investment conduit” within the meaning of Section 860D of the IRS Code that holds any interest in all or any portion of the Loan (including, without limitation, the Note).

“Rent Roll” shall have the meaning set forth in Section 3.17 hereof.

“Rent Loss Proceeds” shall have the meaning set forth in Section 7.1 hereof.

“Rents” shall have the meaning set forth in the Security Instrument.

“Replacement Reserve Funds” shall have the meaning set forth in Section 8.2 hereof.

“Replacement Reserve Monthly Deposit” shall have the meaning set forth in Section 8.2 hereof.

“Replacements” for any period shall mean either (i) amounts expended for any of those certain replacements and/or alterations to the Property set forth on Schedule II attached hereto or (ii) if no such replacements and/or alterations are specified on such Schedule II, amounts expended for replacements and/or alterations to the Property and required to be capitalized according to GAAP and reasonably approved by Lender.

“Reporting Failure” shall have the meaning set forth in Section 4.12 hereof.

“Required Financial Item” shall have the meaning set forth in Section 4.12 hereof.

“Required Rating” shall mean a rating of not less than “A-1” (or its equivalent) from each of the Rating Agencies if the term of such Letter of Credit is no longer than three (3) months or if the term of such Letter of Credit is in excess of three (3) months, a rating of not less than “AA-” (or its equivalent) from each of the Rating Agencies, or, if a Securitization has not occurred, such other rating that is reasonably acceptable to Lender or, if a Securitization shall have occurred, such other rating with respect to which Lender shall have received a Rating Agency Confirmation.

“Reserve Funds” shall mean the Tax and Insurance Funds, the Replacement Reserve Funds, the Ground Rent Reserve Funds, the Leasing Reserve Funds and any other escrow funds established by this Agreement or the other Loan Documents.

“Responsible Officer” shall mean with respect to a Person, the chairman of the board, president, chief operating officer, chief financial officer, treasurer, vice president-accounting or vice president-finance of such Person or such other similar officer of such Person reasonably acceptable to Lender and appropriately authorized by the applicable Person in a manner reasonably acceptable to Lender.

“Restoration” shall have the meaning set forth in Section 7.2 hereof.

“Restoration Retainage” shall have the meaning set forth in Section 7.4 hereof.

“Restoration Threshold” shall mean an amount equal to five percent (5%) of the outstanding principal balance of the Loan.

“Restricted Party” shall have the meaning set forth in Section 6.1 hereof.

“Sale or Pledge” shall have the meaning set forth in Section 6.1 hereof.

“Scheduled Defeasance Payments” shall mean scheduled payments of interest and principal under the Note for all Monthly Payment Dates occurring after the Total Defeasance Date and up to and including the Maturity Date (including the outstanding principal balance on the Note as of the Maturity Date), and all payments required after the Total Defeasance Date, if any, under the Loan Documents for servicing fees, rating surveillance charges (to the extent applicable) and other similar charges.

“Secondary Market Transaction” shall have the meaning set forth in Section 11.1 hereof.

“Securities” shall have the meaning set forth in Section 11.1 hereof.

“Securities Act” shall have the meaning set forth in Section 11.2 hereof.

“Securitization” shall have the meaning set forth in Section 11.1 hereof.

“Security Agreement” shall mean a security agreement in form and substance that would be satisfactory to a prudent lender pursuant to which Borrower grants Lender a perfected, first priority security interest in the Defeasance Collateral Account and the Total Defeasance Collateral.

“Security Instrument” shall mean that certain first priority Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated the date hereof, executed and delivered by Borrower as security for the Loan and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Servicer” shall have the meaning set forth in Section 11.4 hereof.

“Severed Loan Documents” shall have the meaning set forth in Article 10.

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

“Single Purpose Entity” shall mean an entity which satisfies all of the requirements of Section 5.1 hereof and whose structure and organizational and governing documents are otherwise in form and substance acceptable to Lender and the Rating Agencies.

“SPE Component Entity” shall have the meaning set forth in Section 5.1(b) hereof.

“Special Member” shall have the meaning set forth in Section 5.1(c) hereof.

“Specialty Lease” shall mean any lease of kiosk space at the Property, leases of pushcart space at the Property and Leases of space to seasonal Tenants where such Leases are for a term of less than one (1) year.

“Sponsor” shall mean CBL & Associates Properties, Inc., a Delaware corporation.

“S&P” shall mean Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc.

“State” shall mean the state in which the Property or any part thereof is located.

“Successor Borrower” shall have the meaning set forth in Section 2.8 hereof.

“Tax and Insurance Funds” shall have the meaning set forth in Section 8.6 hereof.

“Taxes” shall mean all taxes, assessments, water rates, sewer rents, business improvement district or other similar assessments and other governmental impositions, including, without limitation, vault charges and license fees for the use of vaults, chutes and

similar areas adjoining the Land, now or hereafter levied or assessed or imposed against the Property or any part thereof.

“**Tenant**” shall mean any Person leasing, subleasing or otherwise occupying any portion of the Property under a Lease or other occupancy agreement with Borrower.

“**Tenant Direction Letter**” shall have the meaning set forth in Section 9.2(a) hereof.

“**Test Period**” means each trailing twelve (12) month period ending on the last day of the applicable calendar quarter.

“**Title Insurance Policy**” shall mean that certain ALTA mortgagee title insurance policy issued with respect to the Property and insuring the lien of the Security Instrument.

“**Total Defeasance Collateral**” shall mean U.S. Obligations, which provide payments (i) on or prior to, but as close as possible to, the Business Day immediately preceding all Monthly Payment Dates and other scheduled payment dates, if any, under the Note after the Total Defeasance Date and up to and including the Maturity Date, and (ii) in amounts equal to or greater than the Scheduled Defeasance Payments relating to such Monthly Payment Dates and other scheduled payment dates.

“**Total Defeasance Date**” shall have the meaning set forth in Section 2.8 hereof.

“**Total Defeasance Event**” shall have the meaning set forth in Section 2.8 hereof.

“**Trigger Level**” shall mean \$8,454,041.00.

“**Trigger Period**” means (i) any period commencing on the occurrence of an Event of Default and ending upon the date of the cure of such Event of Default (provided that a Trigger Period has not occurred and is not continuing pursuant to clause (ii) below) and (ii) any period commencing upon the occurrence of the conclusion of any Test Period during which Underwritten NOI is less than the Trigger Level, and ending upon the Underwritten NOI being equal to or greater than the Trigger Level for two (2) consecutive calendar quarters with respect to the applicable Test Period (and if the financial reports required under Sections 4.12 hereof are not delivered to Lender as and when required hereunder, Lender shall provide Borrower with written notice of such failure, and if Borrower fails to deliver such reports within five (5) days of such written notice, a Trigger Period shall be deemed to have commenced and be ongoing, unless and until such reports are delivered and they indicate that, in fact, no Trigger Period is ongoing).

“**UCC**” or “**Uniform Commercial Code**” shall mean the Uniform Commercial Code as in effect in the State.

“**Underwriter Group**” shall have the meaning set forth in Section 11.2 hereof.

“**Updated Information**” shall have the meaning set forth in Section 11.1 hereof.

“U.S. Obligations” shall mean (i) direct obligations of the United States of America for the payment of which its full faith and credit is pledged and which are not subject to prepayment, call or early redemption, (ii) other non-callable “government securities” as defined in Treasury Regulations Section 1.860G-2(a)(8)(i), as amended which (a) will not result in a reduction, downgrade or withdrawal of the ratings for the certificates or any class thereof issued in connection with a Securitization, (b) are then outstanding and (c) are then being generally accepted by the Rating Agencies without any reduction, downgrade or withdrawal of the ratings for the certificates or any class thereof issued in connection with a Securitization or (iii) other non-callable instruments, which (w) if a Securitization has occurred, will not cause the REMIC Trust formed pursuant to such Securitization to fail to maintain its status as a “real estate mortgage investment conduit” within the meaning of Section 860D of the Code, (x) will not result in a reduction, downgrade or withdrawal of the ratings for the certificates or any class thereof issued in connection with a certificate, (y) are then outstanding and (z) are then being generally accepted by the Rating Agencies without any reduction, downgrade or withdrawal of the ratings for the certificates or any class thereof issued in connection with a Securitization.

“Vacancy Deduction” shall have the meaning set forth on Exhibit A attached hereto and made a part hereof.

“Wells” shall have the meaning set forth in Section 11.2 hereof.

“Wells Group” shall have the meaning set forth in Section 11.2 hereof.

“Westfield” shall mean Westfield America Limited Partnership, a Delaware limited partnership.

“Westfield Agreement” shall mean that certain First Amended and Restated Limited Liability Company Agreement of CW Joint Venture, LLC, dated as of October 16, 2007, among Operating Partnership, Westfield and St. Clair Square GP, Inc., an Illinois corporation, as amended by that certain First Amendment to First Amended and Restated Limited Liability Company Agreement of CW Joint Venture, LLC, dated as of November 15, 2007, that certain Second Amendment to First Amended and Restated Limited Liability Company Agreement of CW Joint Venture, LLC, dated as of April 2, 2008, that certain Third Amendment to First Amended and Restated Limited Liability Company Agreement of CW Joint Venture, LLC, dated as of February 25, 2010, and that certain Fourth Amendment to First Amended and Restated Limited Liability Company Agreement of CW Joint Venture, LLC, dated as of July 16, 2010.

“Work Charge” shall have the meaning set forth in Section 4.16(a) hereof.

“Written Description Material” means a document to be prepared by Lender (and to be approved by Borrower and Sponsor pursuant to Section 11.2(b) hereof) which factually describes Borrower, Guarantor Sponsor, Affiliated Manager, the Loan and the Property (but does not include projections or opinions related to Borrower, Guarantor Sponsor, Affiliated Manager, the Loan and the Property). For the avoidance of doubt (i) Written Description Material shall not include any information contained in any offering circular or other securitization materials, other than the information described in the immediately preceding sentence, and (ii) Written Description Material shall not exceed 4 pages in length (unless (x) otherwise agreed by Borrower

and Sponsor, (y) reasonably necessary to include all material factual information about Borrower, Guarantor Sponsor, Affiliated Manager, the Loan and the Property and (z) as a result of the Written Description Material including information regarding Affiliates of Borrower with loans included in the same Securitization).

“Yield Maintenance Premium” shall mean an amount equal to the greater of the following two amounts: (a) an amount equal to one (1%) of the amount prepaid; or (b) an amount equal to (i) the amount, if any, by which the sum of the present values as of the prepayment date of all unpaid principal and interest payments required hereunder, calculated by discounting such payments from the respective dates each such payment was due hereunder (or, with respect to the payment required on the Maturity Date, from the Maturity Date) back to the prepayment date at a discount rate equal to the Periodic Treasury Yield (defined below) exceeds the outstanding principal balance of the Loan as of the prepayment date, *multiplied* by (ii) a fraction whose numerator is the amount prepaid and whose denominator is the outstanding principal balance of the Loan as of the prepayment date. For purposes of the foregoing, **“Periodic Treasury Yield”** shall mean (y) the annual yield to maturity of the actively traded non-callable United States Treasury fixed interest rate security (other than any such security which can be surrendered at the option of the holder at face value in payment of federal estate tax or which was issued at a substantial discount) that has a maturity closest to (whether before, on or after) the Maturity Date (or if two or more such securities have maturity dates equally close to the Maturity Date, the average annual yield to maturity of all such securities), as reported in The Wall Street Journal or other authoritative publication or news retrieval service on the fifth Business Day preceding the prepayment date, *divided* by (z) 12. Lender’s calculation of the Yield Maintenance Premium, and all component calculations, shall be conclusive and binding on Borrower absent manifest error.

Section 1.2 Principles of Construction.

All references to sections, exhibits and schedules are to sections, exhibits and schedules in or to this Agreement unless otherwise specified. All uses of the word “including” shall mean “including, without limitation” unless the context shall indicate otherwise. Unless otherwise specified, the words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined.

ARTICLE 2.

GENERAL TERMS

Section 2.1 Loan Commitment; Disbursement to Borrower.

Section 2.2 The Loan. Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

Section 2.3 Disbursement to Borrower. Borrower may request and receive only one borrowing hereunder in respect of the Loan and any amount borrowed and repaid hereunder in respect of the Loan may not be re-borrowed.

Section 2.4 The Note and the other Loan Documents. The Loan shall be evidenced by the Note and this Agreement and secured by this Agreement, the Security Instrument and the other Loan Documents.

Section 2.5 Interest Rate.

(a) Generally, interest on the outstanding principal balance of the Loan shall accrue from the Closing Date up to but excluding the Maturity Date at the Interest Rate.

(b) Intentionally Omitted.

(c) Default Rate. In the event that, and for so long as, any Event of Default shall have occurred and be continuing, the outstanding principal balance of the Loan and, to the extent permitted by Applicable Law, overdue interest in respect of the Loan, shall accrue interest at the Default Rate, calculated from the date such payment was due without regard to any grace or cure periods contained herein.

(d) Interest Calculation. Interest on the outstanding principal balance of the Loan shall accrue at the Interest Rate. The Note Rate shall be calculated on a 30/360 Basis, except where the Closing Date is not the first (1st) day of a calendar month in which case the Interest Rate for the period from and including the Closing Date to and including the last day of the calendar month in which the Closing Date occurs shall be calculated on an Actual/365 Basis.

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

Section 2.6 Loan Payments.

(a) Payment Before Maturity. Borrower shall make a payment to Lender of interest only on the Closing Date for the period from the Closing Date through the last day of the month in which the Closing Date occurs (unless the Closing Date is the first day of a calendar month, in which case no such separate payment of interest shall be due). Borrower shall make a payment

to Lender of principal (if applicable) and interest in the amount of the Monthly Debt Service Payment Amount on the Monthly Payment Date occurring in May, 2011 and on each Monthly Payment Date thereafter to and including the Maturity Date. Each payment shall be applied first to accrued and unpaid interest and the balance, if any, to principal. The Monthly Debt Service Payment Amount required hereunder (where such Monthly Debt Service Payment includes both principal and interest) is based upon a twenty-five (25) year amortization schedule.

(b) Intentionally Omitted.

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

(d) Late Payment Charge. If any principal, interest or any other sum due under the Loan Documents, other than the payment of principal due (i) on the Maturity Date or (ii) on any other earlier date as a result of an acceleration of the Loan, is not paid by Borrower within five (5) days when due, Borrower shall pay to Lender upon demand an amount equal to the lesser of five percent (5%) of such unpaid sum or the maximum amount permitted by Applicable Law in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. Any such amount shall be secured by the Security Instrument and the other Loan Documents.

(e) Method and Place of Payment.

(i) Except as otherwise specifically provided herein, all payments and prepayments under this Agreement and the Note shall be made to Lender not later than 10:00 A.M., California time, on the date when due (except that all amounts due and payable on the Maturity Date shall be made to Lender not later than 11:00 A.M., California time), and shall be made in lawful money of the United States of America in immediately available funds at Lender's office, and any funds received by Lender after such time shall, for all purposes hereof, be deemed to have been paid on the next succeeding Business Day.

(ii) Whenever any payment to be made hereunder or under any other Loan Document shall be stated to be due on a day which is not a Business Day, the due date thereof shall be deemed to be the immediately succeeding Business Day.

(iii) All payments required to be made by Borrower hereunder or under the Note or the other Loan Documents shall be made irrespective of, and without deduction for, any setoff, claim or counterclaim and shall be made irrespective of any defense thereto.

Section 2.7 Prepayments.

(a) Except as otherwise provided herein, Borrower shall not have the right to prepay the Loan in whole or in part. On and after the Monthly Payment Date occurring three (3) months prior to the Maturity Date (the "**Lockout Release Date**"), Borrower may, provided no Event of Default has occurred and is continuing, at its option and upon ten (10) Business Days prior

notice to Lender (or such shorter period of time as may be permitted by Lender in its sole discretion) (a “**Prepayment Notice**”), prepay the Debt in whole on any date without payment of the Yield Maintenance Premium. Any prepayment received by Lender on a date other than a Monthly Payment Date shall include interest which would have accrued thereon to the next Monthly Payment Date (such amounts, the “**Interest Shortfall**”), plus all other amounts then due under the Loan Documents. Borrower hereby agrees that in the event Borrower delivers a Prepayment Notice and fails to prepay the Loan in accordance with the Prepayment Notice and the terms of this Section 2.7 (a “**Prepayment Failure**”), Borrower shall pay to Lender, on demand, all out-of-pocket costs and expenses incurred by Lender with respect to any such Prepayment Failure.

(b) **Mandatory Prepayments.** On each date on which Lender actually receives a distribution of Net Proceeds, and if such Net Proceeds are not made available to Borrower for Restoration, then Borrower shall be deemed to make a prepayment on the outstanding principal balance of the Note in an amount equal to one hundred percent (100%) of such Net Proceeds together with any applicable Interest Shortfall. In the event that Lender applies the Net Proceeds as a mandatory prepayment pursuant to the first sentence of this Section 2.7(b) in which the loss is in an aggregate amount exceeding forty percent (40%) of the original principal balance of the Loan, Borrower may within ninety (90) days following such distribution of Net Proceeds, at its option and upon ten (10) days’ prior written notice to Lender, prepay the Debt in whole (but not in part). No Yield Maintenance Premium shall be due in connection with any prepayment made pursuant to this Section 2.7(b), but Borrower shall be liable for Short Interest and all other amounts due under the Loan Documents.

(c) **Prepayments After Default.** If concurrently with or during the continuance of an Event of Default, payment of all or any part of the principal of the Loan is tendered by Borrower, a purchaser at foreclosure or any other Person, such tender shall be deemed an attempt to circumvent the prohibition against prepayment prior to the Lockout Release Date as set forth herein and Borrower, such purchaser at foreclosure or other Person shall pay the Yield Maintenance Premium, in addition to the outstanding principal balance, all accrued and unpaid interest and other amounts payable under the Loan Documents. Borrower acknowledges that (i) a prepayment will cause damage to Lender; (ii) the Yield Maintenance Premium is intended to compensate Lender for the loss of its investment and the expense incurred and time and effort associated with making the Loan, which will not be fully repaid if the Loan is prepaid; (iii) it will be extremely difficult and impractical to ascertain the extent of Lender’s damages caused by a prepayment after an acceleration or any other prepayment not permitted by the Loan Documents; and (iv) the Yield Maintenance Premium represents Lender’s and Borrower’s reasonable estimate of Lender’s damages from the prepayment and is not a penalty.

Section 2.8 Defeasance.

(a) Provided no Event of Default shall have occurred and remain uncured, Borrower shall have the right at any time after the Release Date and prior to the Maturity Date to voluntarily defease the entire Loan and obtain a release of the lien of the Security Instrument by providing Lender with the Total Defeasance Collateral (hereinafter, a “**Total Defeasance Event**”), subject to the satisfaction of the following conditions precedent:

(i) Borrower shall provide Lender not less than thirty (30) days notice (or such shorter period of time if permitted by Lender in its reasonable discretion) but not more than sixty (60) days notice specifying a date (the “**Total Defeasance Date**”) on which the Total Defeasance Event is to occur;

(ii) Borrower shall pay to Lender (A) all payments of principal and interest due and payable on the Loan to and including the Total Defeasance Date (provided that, if such Total Defeasance Date is not a Monthly Payment Date, Borrower shall also pay to Lender all payments of principal and interest due on the Loan to and including the next occurring Monthly Payment Date); (B) all other sums, if any, then due and payable under the Note, this Agreement, the Security Instrument and the other Loan Documents through and including the Total Defeasance Date (or, if the Total Defeasance Date is not a Monthly Payment Date, the next occurring Monthly Payment Date); (C) all escrow, closing, recording, legal, Rating Agency and other out-of-pocket fees, costs and expenses paid or incurred by Lender or its agents in connection with the Total Defeasance Event, the release of the lien of Security Instrument on the Property, the review of the proposed Defeasance Collateral and the preparation of the Security Agreement and related documentation; and (D) any revenue, documentary stamp, intangible or other taxes, charges or fees due in connection with the transfer or assumption of the Note and/or the Total Defeasance Event.

(iii) Borrower shall deposit the Total Defeasance Collateral into the Defeasance Collateral Account and otherwise comply with the provisions of Section 2.8(d) hereof;

(iv) Borrower shall execute and deliver to Lender a Security Agreement, in form and substance reasonably satisfactory to Lender, in respect of the Defeasance Collateral Account and the Total Defeasance Collateral;

(v) Borrower shall deliver to Lender an opinion of counsel for Borrower, in form and substance reasonably satisfactory to Lender and delivered by counsel reasonably satisfactory to Lender, that is standard in commercial lending transactions and subject only to customary qualifications, assumptions and exceptions opining, among other things, that (A) Lender has a legal and valid perfected first priority security interest in the Defeasance Collateral Account and the Total Defeasance Collateral; (B) if a Securitization has occurred (1) the REMIC Trust formed pursuant to such Securitization and/or any subsequent or prior Securitization of the Loan or any portion thereof or interest therein will each not fail to maintain their respective status as a “real estate mortgage investment conduit” within the meaning of Section 860D of the IRS Code as a result of a Total Defeasance Event pursuant to this Section 2.8 and (2) the Total Defeasance Event would not (I) constitute a “significant modification” of the Loan within the meaning of Treasury Regulation Section 1.1001-3 or (II) cause the Loan to fail to be a “qualified mortgage” within the meaning of Section 860G(a)(3)(A) of the IRS Code; (C) the Total Defeasance Event will not result in a deemed exchange for purposes of the IRS Code and will not adversely affect the status of the Note as indebtedness for federal income tax purposes; (D) delivery of the Total Defeasance Collateral and the grant of a security interest therein to Lender shall not constitute an avoidable preference under

Section 547 of the Bankruptcy Code or applicable state law; and (E) a New Non-Consolidation Opinion with respect to the Successor Borrower;

(vi) Borrower shall deliver to Lender a Rating Agency Confirmation as to the Total Defeasance Event;

(vii) Borrower shall deliver an Officer's Certificate certifying that the requirements set forth in this Section 2.8 have been satisfied;

(viii) Borrower shall deliver a certificate of a "big four" or other nationally recognized public accounting firm acceptable to Lender certifying that the Total Defeasance Collateral will generate monthly amounts equal to or greater than the Scheduled Defeasance Payments; and

(ix) Borrower shall deliver such other certificates, opinions, documents and instruments as Lender may reasonably request.

(b) If Borrower has elected to defease the entire Note and the requirements of this Section 2.8 have been satisfied, the Property shall be released from the lien of the Security Instrument and the Total Defeasance Collateral pledged pursuant to the Security Agreement shall be the sole source of collateral securing the Note. In connection with the release of the lien, Borrower shall submit to Lender, not less than thirty (30) days prior to the Total Defeasance Date (or such shorter time as is acceptable to Lender in its sole discretion), a release of lien (and related Loan Documents) for execution by Lender. Such release shall be in a form appropriate in the jurisdiction in which the Property is located and shall contain standard provisions protecting the rights of the releasing lender. In addition, Borrower shall provide all other documentation Lender reasonably requires to be delivered by Borrower in connection with such release, together with an Officer's Certificate certifying that such documentation (i) is in compliance with all Applicable Law, and (ii) will affect such release in accordance with the terms of this Agreement. Borrower shall pay all actual out-of-pocket costs, taxes and expenses associated with the release of the lien of the Security Instrument, including Lender's reasonable attorneys' fees. Except as set forth in this Article 2, no repayment, prepayment or defeasance of all or any portion of the Note shall cause, give rise to a right to require, or otherwise result in, the release of the lien of the Security Instrument.

(c) At Borrower's sole cost and expense, Lender shall use commercially reasonable efforts to cooperate with Borrower to avoid the incurrence of mortgage recording taxes in connection with a Total Defeasance Event.

(d) On or before the date on which Borrower delivers the Total Defeasance Collateral, Borrower or Successor Borrower (as applicable) shall open at any Eligible Institution an Eligible Account (the "**Defeasance Collateral Account**"). The Defeasance Collateral Account shall contain only (i) Total Defeasance Collateral, and (ii) cash from interest and principal paid on the Total Defeasance Collateral. All cash from interest and principal payments paid on the Total Defeasance Collateral shall be paid over to Lender on each Monthly Payment Date and applied first to accrued and unpaid interest and then to principal. Any cash from interest and principal paid on the Total Defeasance Collateral not needed to pay the Scheduled

Defeasance Payments shall be paid to Borrower or Successor Borrower (as applicable). Borrower or Successor Borrower (as applicable) shall cause the Eligible Institution at which the Total Defeasance Collateral is deposited to enter into an agreement with Borrower or Successor Borrower (as applicable) and Lender, satisfactory to Lender in its sole discretion, pursuant to which such Eligible Institution shall agree to hold and distribute the Total Defeasance Collateral in accordance with this Agreement. Borrower or Successor Borrower (as applicable) shall be the owner of the Defeasance Collateral Account and shall report all income accrued on Total Defeasance Collateral for federal, state and local income tax purposes in its income tax return. Borrower shall prepay all cost and expenses associated with opening and maintaining the Defeasance Collateral Account. Lender shall not in any way be liable by reason of any insufficiency in the Defeasance Collateral Account.

(e) In connection with a Total Defeasance Event under this Section 2.8, Borrower shall transfer and assign all obligations, rights and duties under and to the Note and the Security Agreement, together with the Total Defeasance Collateral to a newly-created successor entity, which entity shall be a Single Purpose Entity and which entity shall be designated or established by Borrower (the “**Successor Borrower**”). Such Successor Borrower shall assume the obligations under the Note and the Security Agreement and Borrower shall be relieved of its obligations under the Loan Documents (other than those obligations which by their terms survive a repayment, defeasance or other satisfaction of the Loan and/or a transfer of the Property in connection with Lender’s exercise of its remedies under the Loan Documents). Borrower shall pay \$1,000 to any such Successor Borrower as consideration for assuming the obligations under the Note and the Security Agreement. Borrower shall pay all actual out-of-pocket costs and reasonable expenses incurred by Lender, including the cost of establishing the Successor Borrower and Lender’s reasonable attorney’s fees and expenses, incurred in connection therewith.

(f) Notwithstanding anything to the contrary contained in this Section 2.8, the parties hereto hereby acknowledge and agree that after the Securitization of the Loan (or any portion thereof or interest therein), with respect to any Lender approval or similar discretionary rights over any matters contained in this Section (any such matter, a “**Defeasance Approval Item**”), such rights shall be construed such that Lender shall only be permitted to withhold its consent or approval with respect to any Defeasance Approval Item if the same fails to meet the Prudent Lender Standard.

Section 2.9 Release of the Designated Release Parcel.

(a) Borrower may obtain the release of the Designated Release Parcel provided that all of the following conditions precedent have been satisfied:

- (i) Lender receives a written request therefor at least twenty (20) days prior to the proposed release date;
- (ii) no Event of Default shall exist at the time such release is requested or at the time the release actually occurs;

(iii) contemporaneously with such release, the Designated Release Parcel is conveyed to a Person other than Borrower;

(iv) at the time of such release, the Designated Release Parcel remains an unimproved parcel of land;

(v) the Designated Release Parcel constitutes a separate, legally subdivided parcel of land and a separate tax lot;

(vi) the release of the Designated Release Parcel shall not (I) give rise to any right of any Tenant at the Property to terminate its Lease or abate the Rent payable thereunder, (II) give rise to any Person party to a Property Document to terminate such Property Document or (III) otherwise cause a Material Adverse Effect.

(vii) Borrower pays all reasonable out-of-pocket expenses incurred by Lender (including all reasonable attorney's fees and Rating Agency fees (if any)) in connection with such release; it being understood that Borrower shall not be required to pay any internal Lender or Servicer review fees;

(viii) the Designated Release Parcel shall remain subject to any applicable Property Documents;

(ix) the conveyance of the Designated Release Parcel does not (1) cause any portion of the Property or interest therein continuing to be subject to the lien of the Security Instrument after such release (the "**Remaining Property**") to be in violation of any Applicable Law, or (2) create any liens on the Remaining Property;

(x) the Designated Release Parcel is not necessary for the uses of the Remaining Property, including, without limitation, for support, access, driveways, parking, utilities, drainage flows or any other purpose (after giving effect to any easements therefor reserved over the Designated Release Parcel for the benefit of the Remaining Property, any REA Amendment or any Release Parcel REA; provided the title company shall insure the benefits of those reservations, easements and/or REAs in a manner acceptable to Lender);

(xi) that upon the conveyance of the Designated Release Parcel, either (I) sufficient parking remains on the Remaining Property (including parking easements over adjacent properties which are appurtenances to the Remaining Property) to comply with all Leases of such Remaining Property, with any applicable Property Documents and all Applicable Law and which is adequate for the proper use and enjoyment of the Remaining Property or (II) reservations of parking (in favor of the Remaining Property) within the Designated Release Parcel are sufficient (when added to parking otherwise available to the Remaining Property (including parking easements over adjacent properties which are appurtenances to the Remaining Property)) to comply with all Leases of such Remaining Property, with any applicable Property Documents and all Applicable Law and which is adequate for the proper use and enjoyment of the Remaining Property; provided the title company shall insure the benefits of those reservations, easements and/or REAs in a manner acceptable to Lender;

(xii) if the Loan is part of a Securitization and if required by Lender, Lender shall be satisfied that the conveyance of the Designated Release Parcel shall be permitted pursuant to REMIC Requirements, including, without limitation, the requirement that Borrower deliver to Lender an opinion of counsel reasonably acceptable to Lender and acceptable to the Rating Agencies that the release of the Designated Release Parcel would not constitute a “significant modification” of the Loan under Section 1001 of the Internal Revenue Code or cause the Loan to fail to be a “qualified mortgage” within the meaning of Section 860G(a)(3)(A) of the IRS Code; provided, however, Lender hereby acknowledges that for purposes of the current and any future appraisal of the Property, no value has been nor shall be given to the Designated Release Parcel;

(xiii) if the Loan is part of a Securitization and if required by Lender, Borrower deliver to Lender a Rating Agencies Confirmation;

(xiv) the conveyance and release of the Designated Release Parcel shall not cause the representations, warranties and agreements made by Borrower in this Agreement and the other Loan Documents to be untrue or incorrect in any material respect on and as of the date of such conveyance (and after giving effect to such conveyance);

(xv) Borrower shall submit to Lender, not less than ten (10) days prior to the date of such release:

- (A) a release of lien for the Designated Release Parcel (for execution by Lender) in a form appropriate in the State and otherwise reasonably acceptable to Lender (including standard provisions for the protection of Lender) and a UCC-3 Financing Statement for the purpose of amending the collateral description on the UCC-1 Financing Statements filed in connection with the origination of the Loan;
- (B) (I) evidence that the Designated Release Parcel and the Remaining Property have been legally subdivided into separate parcels, (II) a certification that no evidence has arisen indicating that the conveyance and release of the Designated Release Parcel results in the Remaining Property failing to comply with all zoning laws and all other Applicable Law (including, without limitation, copies of all approvals, consents or permits with respect to such release), (III) evidence that no portion of the Remaining Property shall for any purpose whatsoever be part of a tax lot with all or part of any of the Designated Release Parcel, (IV) evidence that the Designated Release Parcel is not necessary for the uses of the Remaining Property, including, without limitation, for support, access, driveways, parking, utilities, drainage flows or any other purpose (after giving effect to any REA Amendment or Release Parcel REA for the benefit of the Remaining Property; provided the title company shall insure the benefits of those reservations, easements and/or REAs in a manner acceptable to Lender) and (V) evidence that the Remaining Property has direct access to public streets and utility services which may be satisfied

pursuant to the rights granted to Borrower under the REA Amendment or Release Parcel REA;

- (C) a survey of the Designated Release Parcel prepared by a surveyor licensed in the State and meeting the same standards as the survey delivered to Lender on or about the Closing Date (but complying with the then applicable ALTA requirements) and containing a certification of such surveyor in substantially the same form as the survey certification delivered to Lender in connection with the survey delivered to Lender on or about the Closing Date;
- (D) an Officer's Certificate certifying that to such officer's knowledge after due inquiry, such documentation (I) is in compliance with all Applicable Law, (II) will effectuate the release of the Designated Release Parcel in accordance with the terms of this Agreement and (III) will not impair or otherwise adversely affect the liens and other rights of Lender under the Loan Documents;
- (E) an endorsement to the existing Title Insurance Policy reflecting the release of the Designated Release Parcel as Lender may reasonably require (including, without limitation, a "bring down", "date down" or similar endorsement) insuring that, other than the Security Instrument, and any other liens permitted under this Agreement, there are no liens, mortgages, deeds of trust or other security instruments, as the case may be, encumbering the Remaining Property which would have priority over the lien and security interest of the Security Instrument;
- (F) a copy of any new easement (the "**Release Parcel REA**") or amendment to any applicable Property Documents or other cross easement agreement (the "**REA Amendment**"), which may be effected directly or by reservation in the deed conveying the Designated Release Parcel, to be executed on or prior to the date the conveyance of the Designated Release Parcel occurs which will provide for any of the reservations required by this Section 2.9(a) and which will otherwise conform to the other requirements of this Section 2.9(a) and with all Applicable Law and may contain cross-easements for the benefit of the Designated Release Parcel and the Remaining Property in respect of access, driveways, parking, utilities, drainage flows, storm and sanitary sewers, and other customary purposes. The Release Parcel REA and/or REA Amendment, if any, will contain only those provisions which (1) are consistent with Borrower's obligations under the Loan Documents and (2) are acceptable to the Rating Agencies and reasonably acceptable to Lender and shall be insured by the title company in a manner acceptable to Lender;

(b) If Borrower is unable to legally subdivide (i.e. whether by formal subdivision, parcel map, lot line adjustment or similar procedure) the Designated Release Parcel from the Remaining Property, or if Borrower desires to enter into a ground lease in lieu of conveying title

to the Release Parcel, Borrower shall have the right to ground lease the Designated Release Parcel to a Person (including an Affiliate of Borrower) other than Borrower in lieu of such conveyance and Lender shall subordinate the lien of the Security Instrument and the other Loan Documents to such ground lease, provided (i) Borrower complies with all of the conditions to release set forth in this Section 2.9 (with appropriate modifications thereto as necessary to reflect the difference between fee conveyance and ground leasing) other than the requirements that such Designated Release Parcel be legally subdivided from the Remaining Property, (ii) the request for such ground lease shall be accompanied by, at Borrower's option, one of the following (A) an endorsement to the Title Insurance Policy, (B) an opinion of counsel (from counsel and in form and substance acceptable to the Rating Agencies and otherwise complying with the Prudent Lender Standard) or (C) an architect's, civil engineer's or surveyor's certificate from an architect, civil engineer or surveyor (which such party shall be acceptable to the Rating Agencies, meet the Prudent Lender Standard, be licensed to practice in the State and which may be an employee of Borrower, Sponsor or its Affiliates (if the same is acceptable to the Rating Agencies and meets the Prudent Lender Standard)), in each case, stating that a subdivision is not required in order for the Remaining Property to comply with Applicable Law in connection with or after the creation of the ground lease estate, (iii) Borrower delivers evidence to Lender indicating that either (A) financing is available from a reliable funding source to fund the cost of the improvements to be constructed on the Release Parcel, if any, or (B) the ground tenant has sufficient financial wherewithal to pay for the cost of construction of such improvements, if any, and (iv) such ground lease shall contain the following provisions: (A) the use of the Designated Release Parcel shall not be used for any purpose other than a retail or office use compatible with the Remaining Property and shall not be in violation of any Property Documents applicable to the Remaining Property, (B) the ground lease shall be a triple net lease and shall require that the ground tenant be responsible for construction of improvements, all allocable taxes and all insurance, maintenance, utility, repair and other similar obligations with respect to the tenant's improvements, (C) the ground tenant shall be required to restore the demised premises in the case of casualty and condemnation to a safe and habitable condition and/or to remove any damaged structures or debris there from so as to leave the demised premises in a safe condition, and (D) the ground tenant shall discharge (unless the same have been bonded or otherwise secured to Lender's satisfaction) within thirty (30) days any mechanic's lien filed against the demised premises by reason of the acts of the ground tenant or Persons claiming by, through or under the ground tenant. Such ground lease (i) may permit the ground tenant to procure mortgage financing secured by the leasehold estate created thereby, (ii) may only have a nominal rent, (iii) will comply with the provisions of Section 4.14 hereof (other than as expressly set forth above) and (iv) will contain no provisions which are inconsistent with Borrower's obligations under the Loan Documents or, if a Securitization has occurred, which would be unacceptable to the Rating Agencies.

ARTICLE 3.

REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as of the Closing Date that:

Section 3.1 Legal Status and Authority. Borrower (a) is duly organized, validly existing and in good standing under the laws of its state of formation; (b) is duly qualified

to transact business and is in good standing in the State; and (c) has all necessary approvals, governmental and otherwise, and full power and authority to own, operate and lease the Property. Borrower has full power, authority and legal right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to the terms hereof and to keep and observe all of the terms of this Agreement, the Note, the Security Instrument and the other Loan Documents on Borrower's part to be performed. Further, the consent of Westfield is not required to be obtained pursuant to the Westfield Agreement in order for Borrower to obtain the Loan and execute and deliver the Loan Documents (including, without limitation, the granting of Security Instrument as an encumbrance on the Property).

Section 3.2 Validity of Documents. (a) The execution, delivery and performance of this Agreement, the Note, the Security Instrument and the other Loan Documents by Borrower and its applicable Affiliates and the borrowing evidenced by the Note and this Agreement (i) are within the power and authority of such parties; (ii) have been authorized by all requisite organizational action of such parties; (iii) have received all necessary approvals and consents, corporate, governmental or otherwise; (iv) will not materially violate or conflict with, or result in a breach of or constitute (with notice or lapse of time, or both) a material default under any provision of law, any order or judgment of any court or Governmental Authority, any license, certificate or other approval required to operate the Property, Borrower's organizational documents, or any indenture, agreement or other instrument to which Borrower is a party or by which it or any of its assets or the Property is or may be bound or affected, including, without limitation, the Management Agreement; (v) will not result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of its assets, except the lien and security interest created hereby and by the other Loan Documents; and (vi) will not require any authorization or license from, or any filing with, any Governmental Authority (except for the recordation of the Security Instrument in appropriate land records in the State and except for Uniform Commercial Code filings relating to the security interest created hereby), (b) this Agreement, the Note, the Security Instrument and the other Loan Documents have been duly executed and delivered by Borrower through the undersigned authorized representative of Borrower and (c) this Agreement, the Note, the Security Instrument and the other Loan Documents constitute the legal, valid and binding obligations of Borrower. The Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense by Borrower, including the defense of usury, nor would the operation of any of the terms of the Loan Documents, or the exercise of any right thereunder, render the Loan Documents unenforceable (except as such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Creditor's Rights Laws, and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law)), and Borrower has not asserted any right of rescission, set-off, counterclaim or defense with respect thereto.

Section 3.3 Litigation. There is no action, suit or proceeding, judicial, administrative or otherwise (including any condemnation or similar proceeding), pending or, to the best of Borrower's knowledge, threatened or contemplated against Borrower, Sponsor or Guarantor or against or affecting the Property that has not been disclosed to Lender by Borrower in writing in connection with the closing of the Loan, is not fully covered by insurance or, if determined adversely to Borrower, would have a Material Adverse Effect. Lender acknowledges

receipt of the Bloodworth Complaint and Borrower represents that the Bloodworth Complaint, if determined adversely to Borrower, would not have a Material Adverse Effect.

Section 3.4 Agreements. Borrower is not a party to any agreement or instrument or subject to any restriction which would have a Material Adverse Effect. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party or by which Borrower or the Property is bound. Borrower has no material financial obligation under any agreement or instrument to which Borrower is a party or by which Borrower or the Property is otherwise bound, other than (a) obligations incurred in the ordinary course of the operation of the Property and (b) obligations under this Agreement, the Security Instrument, the Note and the other Loan Documents. There is no agreement or instrument to which Borrower is a party or by which Borrower is bound that would require the subordination in right of payment of any of Borrower's obligations hereunder or under the Note to an obligation owed to another party.

Section 3.5 Financial Condition.

(a) Borrower is solvent, and no proceeding under Creditors Rights Laws with respect to Borrower has been initiated and Borrower has received reasonably equivalent value for the granting of the Security Instrument.

(b) No petition in bankruptcy has been filed by or against Borrower, Sponsor or Guarantor, in the last ten (10) years, and neither Borrower, Sponsor or Guarantor, in the last ten (10) years has ever made any assignment for the benefit of creditors or taken advantage of any Creditors Rights Laws.

(c) Borrower is not contemplating either the filing of a petition by it under any Creditor's Rights Laws or the liquidation of its assets or property, and Borrower does not have any knowledge of any Person contemplating the filing of any such petition against it.

Section 3.6 Disclosure. Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading. There is no fact, event or circumstance presently known to Borrower that has not been disclosed to Lender that has had or could reasonably be expected to result in a Material Adverse Effect.

Section 3.7 No Plan Assets. As of the date hereof and throughout the term of the Loan (a) Borrower is not and will not be an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, (b) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(32) of ERISA, (c) transactions by or with Borrower are not and will not be subject to any state statute regulating investments of, or fiduciary obligations with respect to, governmental plans; and (d) none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101.

Section 3.8 Not a Foreign Person. Borrower is not a "foreign person" within the meaning of § 1445(f)(3) of the IRS Code.

Section 3.9 Business Purposes. The Loan is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

Section 3.10 Borrower Information. Borrower's chief executive office as of the date hereof is at 2030 Hamilton Place Boulevard, CBL Center, Suite 500, Chattanooga, Tennessee 37421. Borrower's mailing address, as set forth in the opening paragraph hereof or as changed in accordance with the provisions hereof, is true and correct. Borrower is not subject to back-up withholding taxes.

Section 3.11 Status of Property.

(a) Borrower has, to its knowledge, obtained all certificates, licenses and other approvals, governmental and otherwise, necessary for the operation of the Property and the conduct of its business and all required zoning, building code, land use, environmental and other similar permits or approvals, all of which are in full force and effect as of the date hereof and not subject to revocation, suspension, forfeiture or modification, except where the failure to obtain or maintain such permits, approvals or certificates would not result in a Material Adverse Effect.

(b) The Property and the present and contemplated use and occupancy thereof are in material compliance with all applicable zoning ordinances, building codes, land use laws, Environmental Laws and other similar Applicable Law. Borrower represents that the claims set forth by the plaintiff in the Bloodworth Complaint, if determined adversely to Borrower, would not have a Material Adverse Effect.

(c) The Property has adequate rights of access to dedicated public ways (and makes no material use of any means of access or egress that is not pursuant to such dedicated public ways or recorded, irrevocable rights-of-way or easements) and is adequately served by all public utilities necessary to the continued use and enjoyment of the Property as presently used and enjoyed.

(d) The Property is free from damage caused by fire or other casualty. Except as set forth in the Property Condition Report, and to Borrower's knowledge, the Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing, sewer, waste disposal and septic systems, HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects; to Borrower's knowledge, there exists no structural or other material defects or damages in the Property, whether latent or otherwise, and Borrower has not received notice from any insurance company or bonding company of any defects or inadequacies in the Property, or any part thereof, which would materially and adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

(e) All costs and expenses of any and all labor, materials, supplies and equipment used in the construction of the Improvements have been paid in full. There are no mechanics' or similar liens or claims which have been filed for work, labor or material (and no rights are

outstanding that under Applicable Law could give rise to any such liens) affecting the Property which are or may be prior to or equal to the lien of the Security Instrument.

(f) Borrower has paid in full for, and is the owner of, all furnishings, fixtures and equipment (other than Tenants' property and Permitted Equipment Leases) used directly by Borrower in connection with the operation of the Property, free and clear of any and all security interests, liens or encumbrances, except the lien and security interest created by this Agreement, the Note, the Security Instrument and the other Loan Documents.

(g) No portion of the Improvements is located in an area identified by the Federal Emergency Management Agency or any successor thereto as an area having special flood hazards pursuant to the Flood Insurance Acts or, if any portion of the Improvements is located within such area, Borrower has obtained and will maintain the insurance prescribed in Section 7.1(a) hereof. No part of the Property consists of or is classified as wetlands, tidelands or swamp and overflow lands.

(h) All the Improvements lie within the boundaries of the Land and any building restriction lines applicable to the Land.

(i) To Borrower's knowledge, there are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property, nor are there any contemplated improvements to the Property that may result in such special or other assessments.

Section 3.12 Financial Information. All financial data, including, without limitation, the balance sheets, statements of cash flow, statements of income and operating expense and rent rolls, that have been delivered to Lender in respect of Borrower, Sponsor, Guarantor and/or the Property (a) are true, complete and correct in all material respects, (b) accurately represent the financial condition of Borrower, Sponsor, Guarantor or the Property, as applicable, as of the date of such reports, and (c) to the extent prepared or audited by an independent certified public accounting firm, have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein. Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and reasonably likely to have a Material Adverse Effect, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of Borrower, Sponsor or Guarantor from that set forth in said financial statements, except as otherwise disclosed in a writing to Lender making express reference to this Section 3.12.

Section 3.13 Condemnation. No Condemnation or other proceeding has been commenced or, to Borrower's knowledge, is threatened or contemplated with respect to all or any portion of the Property or for the relocation of the access to the Property.

Section 3.14 Separate Lots. The Property is assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements is assessed and taxed together with the Property or any portion thereof.

Section 3.15 Insurance. Borrower has obtained and has delivered to Lender certificates satisfactory to Lender evidencing, and summaries reflecting, the insurance coverages, amounts and other requirements set forth in this Agreement. There are no present claims of any material nature under any of the Policies, and to Borrower's knowledge, no Person, including Borrower, has done, by act or omission, anything which would impair the coverage of any of the Policies.

Section 3.16 Use of Property. The Property is used as a retail shopping center and other appurtenant and related uses.

Section 3.17 Leases and Rent Roll. Except as disclosed in the rent roll for the Property delivered to and approved by Lender (the "**Rent Roll**") and the aging report and Tenant estoppels delivered to and approved by Lender, (a) Borrower is the sole owner of the entire lessor's interest in the Leases; (b) the Leases are valid and enforceable and in full force and effect; (c) all of the Leases are arms-length agreements with bona fide, independent third parties; (d) no party under any Lease is in default in any material respect; (e) all Rents due have been paid in full and no Tenant is in arrears in its payment of Rent; (f) none of the Rents reserved in the Leases have been assigned or otherwise pledged or hypothecated (except such pledge or hypothecation that will be fully terminated and released in connection with the filing and recordation of the Security Instrument and except for Liens contemplated pursuant to the Loan Documents); (g) none of the Rents have been collected for more than one (1) month in advance (except a security deposit shall not be deemed rent collected in advance); (h) the premises demised under the Leases have been completed and the Tenants under the Leases have accepted the same and have taken possession of the same on a rent-paying basis; (i) there exist no offsets or defenses to the payment of any portion of the Rents and Borrower has no monetary obligation to any Tenant under any Lease; (j) Borrower has received no notice from any Tenant challenging the validity or enforceability of any Lease; (k) there are no agreements with the Tenants under the Leases other than expressly set forth in each Lease; (l) no Lease contains an option to purchase, right of first refusal to purchase, right of first refusal to lease additional space at the Property, or any other similar provision; (m) no person or entity has any possessory interest in, or right to occupy, the Property except under and pursuant to a Lease; (n) no Tenants have exercised any right to "go dark" that they may have under their Leases; (o) all security deposits relating to the Leases reflected on the Rent Roll have been collected by Borrower (but such security deposits are not held in segregated accounts unless required by Applicable Law); (p) no brokerage commissions or finders fees are due and payable regarding any Lease; (q) each Tenant is in actual, physical occupancy of the premises demised under its Lease and is paying full rent under its Lease; and (r) no Tenant occupying ten percent (10%) or more (by square feet) of the net rentable area of the Property is, to Borrower's knowledge, a debtor in any state or federal bankruptcy or insolvency proceeding.

Section 3.18 Filing and Recording Taxes. All mortgage, mortgage recording, stamp, intangible or other similar tax 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 this Agreement, the Security Instrument, the Note and the other Loan Documents, including, without limitation, the Security Instrument, have been paid or will be paid, and, under current Applicable Law, the Security Instrument is enforceable in accordance with its terms by Lender (or any subsequent holder thereof), except as such

enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Creditor's Rights Laws, and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 3.19 Management Agreement. The Management Agreement is in full force and effect and there is no default thereunder by any party thereto and, to Borrower's knowledge, no event has occurred that, with the passage of time and/or the giving of notice would constitute a default thereunder. As of the date hereof, no management fees under the Management Agreement are due and payable.

Section 3.20 Illegal Activity/Forfeiture.

(a) No portion of the Property has been or will be purchased, improved, equipped or furnished with proceeds of any illegal activity and to the best of Borrower's knowledge, there are no illegal activities or activities relating to controlled substances at the Property.

(b) There has not been committed by Borrower or, to Borrower's knowledge, any other person in occupancy of or involved with the operation or use of the Property, any act or omission affording the federal government or any state or local government the right of forfeiture as against the Property or any part thereof or any monies paid in performance of Borrower's obligations under this Agreement, the Note, the Security Instrument or the other Loan Documents. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording such right of forfeiture.

Section 3.21 Taxes. Borrower has filed (or has obtained currently effective extensions for filing) all federal, state, county, municipal, and city income, personal property and other tax returns required to have been filed by it and has paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by it. Borrower knows of no basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

Section 3.22 Permitted Encumbrances. None of the Permitted Encumbrances, individually or in the aggregate, materially interferes with the benefits of the security intended to be provided by this Agreement, the Security Instrument, the Note and the other Loan Documents, materially and adversely affects the marketability of the Property, materially impairs the use or the operation of the Property or impairs Borrower's ability to pay its obligations in a timely manner.

Section 3.23 Third Party Representations. Each of the representations and the warranties made by Sponsor and Guarantor in the other Loan Documents (if any) are true, complete and correct in all material respects.

Section 3.24 Non-Consolidation Opinion Assumptions. All of the assumptions made in the Non-Consolidation Opinion, including, but not limited to, any exhibits attached thereto, are true, complete and correct.

Section 3.25 Federal Reserve Regulations. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the

meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Applicable Law or by the terms and conditions of this Agreement, the Security Instrument, the Note or the other Loan Documents.

Section 3.26 Investment Company Act. Borrower is not (a) an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended; (b) a “holding company” or a “subsidiary company” of a “holding company” or an “affiliate” of either a “holding company” or a “subsidiary company” within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (c) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

Section 3.27 Fraudulent Conveyance. Borrower (a) has not entered into the Loan or any Loan Document with the actual intent to hinder, delay, or defraud any creditor and (b) received reasonably equivalent value in exchange for its obligations under the Loan Documents. Giving effect to the Loan, the fair saleable value of Borrower’s assets exceeds and will, immediately following the execution and delivery of the Loan Documents, exceed Borrower’s total liabilities, including, without limitation, subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of Borrower’s assets is and will, immediately following the execution and delivery of the Loan Documents, be greater than Borrower’s probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. Borrower’s assets do not and, immediately following the execution and delivery of the Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including, without limitation, contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of Borrower).

Section 3.28 Embargoed Person. As of the date hereof and at all times throughout the term of the Loan, including after giving effect to any transfers of interests permitted pursuant to the Loan Documents, (a) none of the funds or other assets of Borrower, Sponsor or Guarantor constitute property of, or are beneficially owned, directly or indirectly (other than the shareholders of any owner or a direct or indirect interest in Borrower, Sponsor or Guarantor through a publicly traded company listed on the New York Stock Exchange or another nationally recognized stock exchange), by any person, entity or country which is a sanctioned person, entity or country under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder (including regulations administered by the Office of Foreign Assets Control (“OFAC”) of the U.S. Department of the Treasury and the Specially Designated Nationals List maintained by OFAC) with the result that the investment in Borrower, Sponsor and/or Guarantor, as applicable (whether directly or indirectly), is prohibited by Applicable Law or the Loan made by Lender is in violation of Applicable Law (“**Embargoed Person**”); (b) unless expressly waived in writing by Lender, no Embargoed Person (other than the shareholders of any owner or a direct or indirect interest in Borrower, Sponsor or Guarantor through a publicly traded company listed on

the New York Stock Exchange or another nationally recognized stock exchange) has any interest of any nature whatsoever in Borrower, Sponsor or Guarantor, as applicable, with the result that the investment in Borrower, Sponsor and/or Guarantor, as applicable (whether directly or indirectly), is prohibited by Applicable Law or the Loan is in violation of Applicable Law; and (c) to the best knowledge of Borrower, none of the funds of Borrower, Sponsor or Guarantor, as applicable, have been derived from any unlawful activity with the result that the investment in Borrower, Sponsor and/or Guarantor, as applicable (whether directly or indirectly), is prohibited by Applicable Law or the Loan is in violation of Applicable Law. Borrower covenants and agrees that in the event Borrower receives any notice that Borrower, Sponsor or Guarantor (or any of their respective beneficial owners, affiliates or participants) or any Person that has an interest in the Property is designated as an Embargoed Person, Borrower shall immediately notify Lender in writing. At Lender's option, it shall be an Event of Default hereunder if Borrower, Guarantor, Sponsor or any other party to the Loan is designated as an Embargoed Person.

Section 3.29 Patriot Act. All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act (collectively referred to in this Section only as the “**Patriot Act**”) are incorporated into this Section. Borrower hereby represents and warrants that Borrower, Sponsor and Guarantor and each Affiliate of Borrower, Sponsor and/or Guarantor, is and Borrower shall use commercially reasonable efforts to ensure that each such Person remains: (i) in material compliance with all applicable requirements of the Patriot Act and any regulations issued thereunder; (ii) operated under policies, procedures and practices, if applicable, that are in compliance with the Patriot Act and available to Lender for Lender's review and inspection during normal business hours and upon reasonable prior notice; (iii) not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Act; (iv) not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Act; and (v) not owned or controlled by or now acting and or will in the future act for or on behalf of any person who has been determined to be subject to the prohibitions contained in the Patriot Act (other than the shareholders of any owner or a direct or indirect interest in Borrower, Sponsor or Guarantor through a publicly traded company listed on the New York Stock Exchange or another nationally recognized stock exchange). Borrower covenants and agrees that in the event Borrower receives any notice that Borrower, Sponsor or Guarantor (or any of their respective beneficial owners, affiliates or participants) or any Person that has an interest in the Property is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Borrower shall immediately notify Lender. At Lender's option, it shall be an Event of Default hereunder if Borrower, Guarantor, Sponsor or any other party to the Loan is indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering.

Section 3.30 Organizational Chart. The organizational chart attached as Schedule III hereto, relating to Borrower and certain Affiliates and other parties, is true, complete and correct on and as of the date hereof.

Section 3.31 Bank Holding Company Borrower is not a “bank holding company” or a direct or indirect subsidiary of a “bank holding company” as defined in the Bank Holding Company Act of 1956, as amended, and Regulation Y thereunder of the Board of Governors of the Federal Reserve System.

Section 3.32 [Intentionally omitted].

Section 3.33 Property Document Representations. Each Property Document is in full force and effect and neither Borrower nor, to Borrower’s knowledge, any other party to any Property Document, is in default thereunder, and to the best of Borrower’s knowledge, there are no conditions which, with the passage of time or the giving of notice, or both, would constitute a default thereunder. Except as set forth on Schedule IV hereof, no Property Document has been modified, amended or supplemented.

Section 3.34 No Change in Facts or Circumstances.

All information submitted by Borrower, Guarantor or Sponsor to Lender and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the Loan or in satisfaction of the terms thereof and all statements of fact made by Borrower, Sponsor and/or Guarantor in this Agreement or in the other Loan Documents, are accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that would otherwise have a Material Adverse Effect.

Section 3.35 Perfection of Accounts. Borrower hereby represents and warrants to Lender that:

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

(b) The Accounts constitute “deposit accounts” or “securities accounts” within the meaning of the Uniform Commercial Code as set forth in the Cash Management Agreement.

Section 3.36 [Intentionally omitted].

Section 3.37 Guarantor and Sponsor Representations. Borrower hereby represents and warrants that, as of the date hereof, the representations and warranties set forth in Sections 3.1, 3.2, 3.5, 3.6, 3.8, 3.12, 3.21 and 3.27 above are true and correct with respect to Guarantor and Sponsor, as the same are applicable to such party. Wherever the term “Borrower” is used in each of the foregoing Subsections it shall be deemed to be “Guarantor” and “Sponsor”, with respect to each such party.

Borrower agrees that, unless expressly provided otherwise, all of the representations and warranties of Borrower set forth in this Article 3 and elsewhere in this Agreement and the other Loan Documents shall survive for so long as any portion of the Debt remains owing to Lender, but shall not otherwise constitute continuing representations and warranties. All representations, warranties, covenants and agreements made in this Agreement and in the other Loan Documents shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

ARTICLE 4.

BORROWER COVENANTS

From the date hereof and until payment and performance in full of all obligations of Borrower under this Agreement, the Security Instrument, the Note and the other Loan Documents or the earlier release of the lien of the Security Instrument (and all related obligations) in accordance with the terms of this Agreement, the Security Instrument, the Note and the other Loan Documents, Borrower hereby covenants and agrees with Lender that:

Section 4.1 Existence. Borrower will continuously maintain (a) its existence and shall not dissolve or permit its dissolution, (b) its rights to do business in the applicable State and (c) its franchises and trade names, if any.

Section 4.2 Applicable Law.

(a) Borrower shall promptly comply and shall cause the Property to comply in all material respects with all Applicable Law affecting the Borrower and the Property, or the use thereof, including, without limitation, all Environmental Laws and Applicable Law relating to OFAC, Embargoed Persons and the Patriot Act.

(b) Borrower shall from time to time, upon Lender's request, provide Lender with evidence reasonably satisfactory to Lender that the Property materially complies with all Applicable Law or is exempt from compliance with Applicable Law.

(c) Borrower shall give prompt notice to Lender of the receipt by Borrower of any notice related to a material violation of any Applicable Law and of the commencement of any proceedings or investigations which relate to compliance with Applicable Law.

(d) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the validity of any Applicable Law, the applicability of any Applicable Law to Borrower or the Property or any alleged violation of any Applicable Law, provided that (i) no Event of Default has occurred and remains uncured; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be permitted by and conducted in accordance with all Applicable Law; (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; (iv) Borrower shall promptly upon final determination thereof comply with any such Applicable Law determined to be valid or applicable or cure any violation of any Applicable Law; (v) such

proceeding shall suspend the enforcement of the contested Applicable Law against Borrower or the Property; and (vi) Borrower shall furnish such security as may be required in the proceeding, or as may be reasonably requested by Lender, to insure compliance with such Applicable Law, together with all interest and penalties payable in connection therewith. Lender may apply any such security or part thereof, as necessary to cause compliance with such Applicable Law at any time when, in the judgment of Lender, the validity, applicability or violation of such Applicable Law is finally established or the Property (or any part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost.

Section 4.3 Maintenance and Use of Property. Borrower shall cause the Property to be maintained in a good and safe working condition and repair in all material respects (reasonable wear and tear excepted). The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Personal Property in the ordinary course of Borrower's business with items of the same utility and of equal or greater value, and sales of obsolete equipment no longer needed for the operation of the Property) without the consent of Lender (not to be unreasonably withheld or delayed) or as otherwise permitted pursuant to Section 4.21 hereof. Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any casualty, or become damaged, worn or dilapidated or which may be affected by any proceeding of the character referred to in Section 3.13 hereof and shall complete and pay for any structure at any time in the process of construction or repair on the Land. Borrower shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property or any part thereof without Lender's prior written consent (which consent shall not be unreasonably withheld or delayed). If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender. Borrower shall not install or permit to be installed on the Property any underground storage tank.

Section 4.4 Waste. Borrower shall not commit or suffer any material waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security for the Loan. Borrower will not, without the prior written consent of Lender (which consent shall not be unreasonably withheld or delayed), permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Property, regardless of the depth thereof or the method of mining or extraction thereof.

Section 4.5 Taxes and Other Charges.

(a) Borrower shall pay all Taxes and Other Charges now or hereafter levied or assessed or imposed against the Property or any part thereof as the same become due and payable; provided, however, Borrower's obligation to directly pay Taxes and Other Charges shall be suspended for so long as Borrower complies with the terms and provisions of Section 8.6 hereof. Borrower shall furnish to Lender receipts for the payment of the Taxes and the Other

Charges prior to the date the same shall become delinquent (provided, however, that Borrower is not required to furnish such receipts for payment of Taxes and Other Charges in the event that such Taxes and Other Charges have been paid by Lender pursuant to Section 8.6 hereof). Borrower shall not suffer and shall promptly cause to be paid and discharged any lien or charge whatsoever which may be or become a lien or charge against the Property, and shall promptly pay for all utility services provided to the Property.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any Taxes or Other Charges, provided that (i) no Event of Default has occurred and remains uncured; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be permitted by and conducted in accordance with all Applicable Law; (iii) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost; (iv) Borrower shall promptly upon final determination thereof pay the amount of any such Taxes or Other Charges, together with all costs, interest and penalties which may be payable in connection therewith; (v) such proceeding shall suspend the collection of such contested Taxes or Other Charges from the Property; and (vi) Borrower shall furnish such security as may be required in the proceeding, or deliver to Lender such reserve deposits as may be requested by Lender, to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon. Lender may pay over any such cash deposit or part thereof held by Lender to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established or the Property (or part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, canceled or lost or there shall be any danger of the lien of the Security Instrument being primed by any related lien.

Section 4.6 Litigation. Borrower shall give prompt written notice to Lender of any litigation or governmental proceedings pending or threatened in writing against Borrower which might have a Material Adverse Effect.

Section 4.7 Access to Property. Borrower shall permit agents, representatives and employees of Lender to inspect the Property or any part thereof at reasonable hours upon reasonable advance notice, but not more than once per year unless (i) in connection with a Secondary Market Transaction or (ii) a Trigger Period or Event of Default has occurred and is continuing.

Section 4.8 Notice of Default or Trigger Event. Borrower shall promptly advise Lender of any material adverse change in Borrower's, Sponsor's and/or Guarantor's condition (financial or otherwise) or of the occurrence of any Default, Event of Default or Trigger Event of which Borrower has knowledge.

Section 4.9 Cooperate in Legal Proceedings. Except with respect to any claim by Borrower against Lender, Borrower shall cooperate fully with Lender with respect to any proceedings before any court, board or other Governmental Authority which may in any way affect the rights of Lender hereunder or any rights obtained by Lender under any of the Note, the

Security Instrument or the other Loan Documents and, in connection therewith, permit Lender, at Lender's election, to participate in any such proceedings.

Section 4.10 Performance by Borrower. Borrower shall in a timely manner observe, perform and fulfill each and every covenant, term and provision to be observed and performed by Borrower under this Agreement, the Security Instrument, the Note and the other Loan Documents and any other agreement or instrument affecting or pertaining to the Property and any amendments, modifications of changes thereto.

Section 4.11 Awards. Borrower shall cooperate with Lender in obtaining for Lender the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with the Property, and Lender shall be reimbursed for any expenses incurred in connection therewith (including reasonable, actual attorneys' fees and disbursements, and the payment by Lender of the expense of an appraisal on behalf of Borrower in case of a Casualty or Condemnation affecting the Property or any part thereto) out of such Awards or Insurance Proceeds.

Section 4.12 Books and Records.

(a) Borrower shall keep adequate books and records of account in accordance with GAAP, or in accordance with other methods acceptable to Lender in its reasonable discretion (consistently applied), and furnish to Lender:

(i) quarterly (and prior to a Securitization, monthly) certified rent rolls (in the form approved by Lender in connection with the closing of the Loan) and tenant sales reports, each signed and dated by a Responsible Officer of Borrower, within twenty (20) days after the end of each calendar month or forty-five (45) days after the end of each calendar quarter, as applicable;

(ii) quarterly (and prior to a Securitization, monthly) operating statements of the Property, prepared and certified by a Responsible Officer of Borrower in the form required by Lender, detailing the revenues received, the expenses incurred and the components of Underwritten NOI before and after Debt Service and major capital improvements for the period of calculation and containing appropriate year-to-date information, within twenty (20) days after the end of each calendar month or forty-five (45) days after the end of each calendar quarter, as applicable;

(iii) an annual balance sheet, profit and loss statement and statement of cash flow of Borrower (A) provided an Event of Default is not continuing, prepared and certified by a Responsible Officer of Borrower in the form required by Lender and (B) during the continuance of an Event of Default, audited by a "Big Four" accounting firm or other independent certified public accountant reasonably acceptable to Lender (which audited financial statements may be delivered on a consolidated basis with the financial statements of Affiliates of Borrower provided appropriate notation shall be made on such consolidated financial statements to indicate Borrower's specific assets and liabilities and the separateness of Borrower and such Affiliates and to indicate that Borrower's assets and credit are not available to satisfy the debts and other obligations of such Affiliates or

any other Person), in either case, within ninety (90) days after the close of each fiscal year of Borrower;

(iv) an annual operating statement of the Property detailing the revenues received, the expenses incurred and the components of Underwritten NOI before and after Debt Service and major capital improvements for the period of calculation and containing appropriate year-to-date information (A) provided an Event of Default is not continuing, prepared and certified by a Responsible Officer of Borrower in the form required by Lender and (B) during the continuance of an Event of Default, audited by a “Big Four” accounting firm or other independent certified public accountant reasonably acceptable to Lender, in either case, within ninety (90) days after the close of each fiscal year of Borrower;

(v) by no later than December 15 of each calendar year, a preliminary annual operating budget for the next succeeding calendar year presented on a monthly basis consistent with the annual operating statement described above for the Property, including cash flow projections for the upcoming year and all proposed capital replacements and improvements, which such budget shall, subject to the last sentence of this subsection (v), be for informational purposes only (the “**Projected Budget**”). No later than January 31 of each calendar year, Borrower shall deliver a final operating budget for such calendar year in the same form as the Projected Budget (the “**Annual Budget**”). During the continuance of any Event of Default or Trigger Period, Lender shall have the right to approve each Annual Budget;

(vi) [Intentionally omitted];

(vii) by no later than forty-five (45) days after the end of each calendar quarter, an Officer’s Certificate certifying that the calculation of the Underwritten NOI is equal to or greater than the Trigger Level for such calendar quarter and the applicable Testing Period, together with a statement in reasonable detail showing Borrower’s calculation of Underwritten NOI for such calendar quarter and the applicable Testing Period; and

(viii) the Officer’s Certificate required pursuant to Section 5.3 hereof.

(b) Upon request from Lender, Borrower shall furnish in a timely manner to Lender:

(i) A tenant aging and receivables report (provided that such request shall not be made by Lender more than once per calendar quarter); and

(ii) an accounting of all security deposits held in connection with any Lease of any part of the Property.

(c) Within ten (10) days of Lender’s request, Borrower shall furnish Lender (and shall cause Sponsor and/or Guarantor to furnish to Lender) with such other additional financial or management information as may, from time to time, be reasonably required by Lender in form and substance satisfactory to Lender. Borrower shall furnish to Lender and its agents convenient facilities for the examination and audit of any such books and records at any reasonable time from time to time during business hours upon reasonable advance notice, but not more than once

per year unless (i) in connection with a Secondary Market Transaction or (ii) a Trigger Period or Event of Default has occurred and is continuing.

(d) Borrower agrees that all financial statements or other items required to be delivered to Lender pursuant to this Section 4.12 (each a “**Required Financial Item**” and, collectively, the “**Required Financial Items**”) shall: (i) be complete and correct in all material respects; (ii) present fairly the financial condition of the party; (iii) disclose all liabilities that are required to be reflected or reserved against; and (iv) be prepared (A) in hardcopy and electronic formats and (B) in accordance with GAAP or in accordance with other methods acceptable to Lender in its reasonable discretion (consistently applied), subject to changes resulting from audit and normal year-end adjustments. Borrower shall be deemed to warrant and represent that, as of the date of delivery of any such financial statement, there has been no material adverse change in financial condition, nor have any assets or properties been sold, transferred, assigned, mortgaged, pledged or encumbered since the date of such financial statement except as disclosed by Borrower in a writing delivered to Lender. Borrower agrees that all Required Financial Items shall not contain any material misrepresentation or omission of a material fact.

Section 4.13 Estoppel Certificates.

(a) After request by Lender, Borrower, within fifteen (15) days of such request, shall furnish Lender or any proposed assignee with a statement, duly acknowledged and certified, setting forth (i) the original principal amount of the Note, (ii) the unpaid principal amount of the Note, (iii) the rate of interest of the Note, (iv) the terms of payment and maturity date of the Note, (v) the date installments of interest and/or principal were last paid, (vi) that, except as provided in such statement, no Event of Default exists, (vii) that this Agreement, the Note, the Security Instrument and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification and (viii) as to any other matters reasonably requested by Lender and reasonably related to the Leases, the obligations created and evidenced hereby and by the Security Instrument or the Property.

(b) Borrower shall use its commercially reasonable efforts to deliver to Lender, promptly upon request, duly executed estoppel certificates from any one or more Tenants as required by Lender attesting to such facts regarding the Lease as Lender may reasonably require, including, but not limited to, attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, except as security, and that the lessee claims no defense or offset against the full and timely performance of its obligations under the Lease. Notwithstanding the foregoing, Borrower shall not be required to deliver a Tenant estoppel (with respect to the same Tenant) more often than one (1) time per twelve (12) calendar months except in connection with a Secondary Market Transaction or if an Event of Default or Trigger Period is continuing.

(c) In connection with the Securitization of the Loan (or any portion thereof or interest therein), at Lender’s request, Borrower shall provide an estoppel certificate to any Investor or any prospective Investor in substantially the form set forth in Section 4.13(a) above.

(d) Borrower shall deliver to Lender, upon request, estoppel certificates from each party under the Property Documents in form and substance reasonably acceptable to Lender.

Section 4.14 Leases and Rents.

(a) All Leases and all renewals of Leases executed after the date hereof shall (i) provide for rental rates that Borrower reasonably believes in its professional judgment are comparable to existing local market rates for similar properties and similar rentable space, (ii) be on commercially reasonable terms, (iii) provide that such Lease is subordinate to the Security Instrument and that the lessee will attorn to Lender and any purchaser at a foreclosure sale, (iv) not contain any terms which would have a Material Adverse Effect, (v) except for Specialty Leases and License Agreements, be written substantially in accordance with the standard form of Lease which shall have been approved by Lender (subject to any commercially-reasonable changes made in the course of negotiations with the applicable Tenant), (vi) not be to an Affiliate of Borrower, and (vii) not contain any option to purchase, any right of first refusal to purchase, any right to terminate (except in the event of the destruction or condemnation of substantially all of the Property). Any Lease that does not conform to the standards set forth in this Section 4.14(a) shall be subject to the prior written consent of Lender, which consent shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary contained herein, all Major Leases and all renewals, amendments and modifications thereof (including, without limitation, any subletting or assignment thereunder not contemplated by the express terms of such Major Lease) shall be subject to Lender's prior approval, which approval shall not be unreasonably withheld or delayed. Lender shall execute and deliver a Subordination Non-Disturbance and Attornment Agreement on a Tenant's then current standard form to Tenants under future Major Leases approved by Lender promptly upon request with such commercially reasonable changes as may be reasonably required by Lender, from time to time; provided that Borrower shall pay all of Lender's reasonable out-of-pocket costs and expenses (including reasonable attorney's fees) related to negotiating and entering into any such Subordination Non-Disturbance and Attornment Agreement, which costs shall not exceed \$1,500.

(b) Borrower (i) shall observe and punctually perform all material obligations imposed upon the lessor under the Leases in all material respects in a commercially reasonable manner; (ii) shall enforce all material terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed in a commercially reasonable manner, provided, however, Borrower shall not terminate or accept a surrender of a Major Lease without Lender's prior approval (except Borrower may terminate any Lease (other than a Major Lease) following a material default thereunder by the respective Tenant, provided, that Borrower deliver five (5) days prior notice to Lender of Borrower's intent to terminate such Lease); (iii) shall not collect any of the Rents more than one (1) month in advance (other than security deposits); (iv) shall not execute any assignment of lessor's interest in the Leases or the Rents (except as contemplated by the Loan Documents); (v) shall not, without Lender's consent, alter, modify or change any Major Lease so as to change the amount of or payment date for rent, change the expiration date, grant any option for additional space or term, materially reduce the obligations of the lessee or increase the obligations of lessor; provided, however, that any such action with respect to a non-Major Lease shall not cause a Material Adverse Effect and any reduction of rent of a non-Major Lease shall not reduce such rent below such rates as Borrower reasonably believes in its professional judgment are comparable to existing local market rates for

similar properties and similar rentable space; and (vi) shall hold all security deposits under all Leases in accordance with Applicable Law. Upon request, Borrower shall furnish Lender with executed copies of all new Leases entered into by Borrower after the Closing Date, other than Specialty Leases and License Agreements.

(c) Notwithstanding anything contained herein to the contrary, Borrower shall not willfully withhold from Lender any information regarding renewal, extension, amendment, modification, waiver of provisions of, termination, rental reduction of, surrender of space of, or shortening of the term of, any Lease during the term of the Loan. Borrower further agrees to use commercially reasonable efforts to provide Lender with written notice of a Tenant “going dark” under a Major Lease within five (5) Business Days after such Tenant “goes dark”.

(d) Borrower shall notify Lender in writing, within five (5) Business Days following Borrower’s receipt of any termination fee or payment (“**Lease Event Payment**”) paid by any Tenant under any Lease in consideration of any termination, modification or amendment or settlement of any Lease or any release or discharge of any Tenant under any Lease from any obligation thereunder (a “**Lease Event**”). Borrower further covenants and agrees that (i) Borrower shall hold any such Lease Event Payment in trust for the benefit of Lender and (ii) in the event the Debt Yield Condition is not satisfied and such Lease Event Payment, together with all other Lease Event Payments for the applicable calendar year, equals or exceeds \$100,000.00, or if such Lease Event has a Material Adverse Effect, then such Lease Event Payment, together with all other Lease Event Payments for the applicable calendar year not previously delivered to Lender pursuant to this Section 4.14(d), shall be placed by Borrower in reserve with Lender, to be disbursed by Lender for tenant improvement and leasing commission costs with respect to the portion of the Property which generated the applicable Lease Event Payment in accordance with the terms of Section 8.3 hereof (it being understood that in all other cases such Lease Event Payment shall be payable to Borrower).

(e) Notwithstanding anything to the contrary contained herein, to the extent Lender’s prior approval is required for any leasing matters set forth in this Section 4.14, Lender shall have ten (10) Business Days from receipt of written request (which such written request shall include a copy of the proposed lease, market information relating to leases comparable to the proposed lease, financial information with respect to the proposed tenant to the extent in Borrower’s possession and such other relevant materials and information used by Borrower in connection with negotiation of the proposed lease) to approve or disapprove such matter, provided that such request to Lender is marked in bold lettering with the following language: “**LENDER’S RESPONSE IS REQUIRED WITHIN TEN (10) BUSINESS DAYS OF RECEIPT OF THIS NOTICE PURSUANT TO THE TERMS OF A LOAN AGREEMENT BETWEEN THE UNDERSIGNED AND LENDER. ANY REQUEST FOR ADDITIONAL INFORMATION REQUESTED BY LENDER CONCERNING THIS LEASING MATTER MUST BE RECEIVED BY BORROWER WITHIN FIVE (5) BUSINESS DAYS OF THE RECEIPT OF THIS NOTICE BY LENDER**” and the envelope containing the request must be marked “**PRIORITY**”. In the event additional information is reasonably requested by Lender within five (5) Business Days of receipt of Borrower’s written request, Lender shall have five (5) Business Days from receipt of all additional requested information in which to approve or disapprove such leasing matter, notwithstanding the date of the original request. In the event that Lender fails to respond to the leasing matter in question within such time frames as set forth above, Lender’s

approval shall be deemed given for all purposes. Borrower shall provide Lender with such information and documentation as may be reasonably required by Lender, including, without limitation, lease comparables and other market information as reasonably required by Lender.

Section 4.15 Management Agreement.

(a) Borrower shall (i) diligently perform, observe and enforce all of the material terms, covenants and conditions of the Management Agreement on the part of Borrower to be performed, observed and enforced to the end that all things shall be done which are necessary to keep unimpaired the rights of Borrower under the Management Agreement and (ii) promptly notify Lender of the giving of any notice to Borrower of any default (after applicable notice and cure) by Borrower in the performance or observance of any of the terms, covenants or conditions of the Management Agreement on the part of Borrower to be performed and observed and deliver to Lender a true copy of each such notice. Without Lender's prior written consent (such consent not to be unreasonably withheld or delayed), Borrower shall not surrender the Management Agreement, consent to the assignment by Manager of its interest under the Management Agreement, or terminate or cancel the Management Agreement or modify, change, supplement, alter or amend the Management Agreement, in any material respect, either orally or in writing, and Borrower hereby assigns to Lender as further security for the payment of the Debt and for the performance and observance of the terms, covenants and conditions of this Agreement, all the rights, privileges and prerogatives of Borrower to surrender the Management Agreement or to terminate, cancel, modify, change, supplement, alter or amend the Management Agreement in any material respect, and any such surrender of the Management Agreement or termination, cancellation, modification, change, supplement, alteration or amendment of the Management Agreement without the prior consent of Lender (such consent not to be unreasonably withheld or delayed) shall be void and of no force and effect. If Borrower shall default in the performance or observance of any material term, covenant or condition of the Management Agreement on the part of Borrower to be performed or observed, then, without limiting the generality of the other provisions of this Agreement, and without waiving or releasing Borrower from any of its obligations hereunder, Lender shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all the terms, covenants and conditions of the Management Agreement on the part of Borrower to be performed or observed to be promptly performed or observed on behalf of Borrower, to the end that the rights of Borrower in, to and under the Management Agreement shall be kept unimpaired and free from default. Lender and any person designated by Lender shall have, and are hereby granted, the right to enter upon the Property at any time and from time to time for the purpose of taking any such action. If Manager shall deliver to Lender a copy of any notice sent to Borrower of default under the Management Agreement, such notice shall constitute full protection to Lender for any action taken or omitted to be taken by Lender in good faith, in reliance thereon.

Borrower shall notify Lender if Manager sub-contracts to a third party or an affiliate any or all of its management responsibilities under the Management Agreement. Borrower shall, from time to time, use its commercially reasonable efforts to obtain from Manager under the Management Agreement such certificates of estoppel with respect to compliance by Borrower with the terms of the Management Agreement as may be requested by Lender. Borrower shall exercise each individual option, if any, to extend or renew the term of the Management Agreement upon

demand by Lender made at any time within one (1) year of the last day upon which any such option may be exercised, and Borrower hereby expressly authorizes and appoints Lender its attorney-in-fact to exercise, during the continuance of an Event of Default, any such option in the name of and upon behalf of Borrower, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest. Any sums expended by Lender pursuant to this paragraph shall bear interest at the Default Rate from the date such cost is incurred to the date of payment to Lender, shall be deemed to constitute a portion of the Debt, shall be secured by the lien of the Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

(b) Without limitation of the foregoing, if the Management Agreement is terminated pursuant to the Assignment of Management Agreement or for any other reason, then Lender, at its option, may require Borrower to engage, in accordance with the terms and conditions set forth in the Assignment of Management Agreement, a new manager (the “**New Manager**”) to manage the Property, which such New Manager shall be a Qualified Manager. New Manager shall be engaged by Borrower pursuant to a written management agreement that complies with the terms hereof and of the Assignment of Management Agreement and is otherwise satisfactory to Lender in all respects. New Manager and Borrower shall execute an Assignment of Management Agreement in the form then used by Lender. Without limitation of the foregoing, if required by Lender, Borrower shall, as a condition precedent to Borrower’s engagement of such New Manager, obtain a Rating Agency Confirmation with respect to such New Manager and management agreement. To the extent that such New Manager is an Affiliated Manager, Borrower’s engagement of such New Manager shall be subject to Borrower’s delivery to Lender of a New Non-Consolidation Opinion with respect to such New Manager and new management agreement.

Section 4.16 Payment for Labor and Materials.

(a) Subject to Section 4.16(b), Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property (any such bills and costs, a “**Work Charge**”) and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests created hereby and by the Security Instrument, except for the Permitted Encumbrances.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the validity of any Work Charge, the applicability of any Work Charge to Borrower or to the Property or any alleged non-payment of any Work Charge and defer paying the same, provided that (i) no Event of Default has occurred and is continuing; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all Applicable Law; (iii) neither the Property nor any part thereof or interest therein will be in imminent danger of being sold, forfeited, terminated, cancelled or lost; (iv) Borrower shall promptly upon final determination thereof pay (or cause to be paid) any

such contested Work Charge determined to be valid, applicable or unpaid; (v) such proceeding shall suspend the collection of such contested Work Charge from the Property or Borrower shall have paid the same (or shall have caused the same to be paid) under protest; and (vi) Borrower shall furnish (or cause to be furnished) such security as may be required in the proceeding, or as may be reasonably requested by Lender, to insure payment of such Work Charge, together with all interest and penalties payable in connection therewith. Lender may apply any such security or part thereof, as necessary to pay for such Work Charge at any time when, in the judgment of Lender, the validity, applicability or non-payment of such Work Charge is finally established or the Property (or any part thereof or interest therein) shall be in present danger of being sold, forfeited, terminated, cancelled or lost.

Section 4.17 Performance of Other Agreements. Borrower shall observe and perform each and every material term to be observed or performed by Borrower pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Property, or given by Borrower to Lender for the purpose of further securing the Debt and any amendments, modifications or changes thereto.

Section 4.18 Debt Cancellation. Borrower shall not cancel or otherwise forgive or release any claim or debt (other than termination of Leases in accordance herewith) owed to Borrower by any Person, except for adequate consideration and in the ordinary course of Borrower's business.

Section 4.19 ERISA

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

(b) Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan as requested by Lender in its reasonable discretion, that (i) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, or other retirement arrangement, which is subject to Title I of ERISA or Section 4975 of the IRS Code, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) one or more of the following circumstances is true:

- (A) Equity interests in Borrower are publicly offered securities, within the meaning of 29 C.F.R. § 2510.3 101(b)(2);
- (B) Less than 25 percent of each outstanding class of equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. § 2510.3 101(f)(2), as modified by § 3(42) of ERISA, disregarding the value of any equity interests in Borrower held by (I) a Person (other than a benefit plan investor) who has discretionary authority or control with respect to the assets of Borrower, (II) any Person who provides investment advice for a fee (direct or indirect) with respect to the assets of

Borrower, or (III) any affiliate of a Person described in the immediately preceding clause (I) or (II);

- (C) Borrower qualifies as an “operating company” or a “real estate operating company” within the meaning of 29 C.F.R § 2510.3 101(c) or (e) or an investment company registered under The Investment Company Act of 1940; or
- (D) The assets of Borrower are not otherwise “plan assets” of one or more “employee benefit plans” (as defined in Section 3(3) of ERISA) subject to Title I of ERISA, within the meaning of 29 C.F.R. § 2510.3-101.

Section 4.20 No Joint Assessment. Borrower shall not suffer, permit or initiate the joint assessment of the Property with (a) any other real property constituting a tax lot separate from the Property, or (b) any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to the Property.

Section 4.21 Alterations. Lender’s prior approval (which approval shall not be unreasonably withheld or delayed provided no Event of Default is then continuing) shall be required in connection with any alterations to any Improvements (a) that is reasonably expected to result in a Material Adverse Effect, (b) the cost of which (including any related alteration, improvement or replacement) is reasonably anticipated to exceed the Alteration Threshold, (c) that are structural in nature, except for alterations or tenant improvements being made expressly pursuant to existing Leases that have been reviewed and approved by Lender (or for which no approval was required pursuant to Section 4.14 hereof) or (d) is reasonably expected to permit (or is reasonably likely to induce) any Tenant to terminate its Lease or abate its rent. If the total unpaid amounts incurred and to be incurred with respect to any alterations to the Improvements shall at any time exceed the Alteration Threshold, Borrower shall promptly deliver to Lender as security for the payment of such amounts and as additional security for Borrower’s obligations under the Loan Documents any of the following: (i) cash, (ii) U.S. Obligations, (iii) other securities acceptable to Lender, (provided that Lender shall have received a Rating Agency Confirmation as to the form and issuer of same), (iv) a payment and performance guaranty made executed and delivered by Guarantor in favor of Lender in form and substance reasonably acceptable to Lender, (v) a Letter of Credit in form and substance reasonably acceptable to Lender, or (vi) a completion bond (provided that Lender shall have received a Rating Agency Confirmation as to the form and issuer of same). Such security shall be in an amount equal to the excess of the total unpaid amounts incurred and to be incurred with respect to such alterations to the Improvements over the Alteration Threshold. All alterations to any Improvements shall be made lien-free and in a good and workmanlike manner in accordance with all Applicable Laws.

Any security provided by or on behalf of Borrower shall be returned or released upon the delivery to Lender of an Officer’s Certificate from Borrower which states (a) that the applicable alterations are substantially complete in material compliance with Applicable Law, (b) each person supplying material or labor to complete the alterations has been paid in full accompanied by final lien waivers from the general contractor and all sub-contractors with respect to individual alterations costing over \$750,000, and (c) all licenses, permits or other approvals

required by any Governmental Authority (including, without limitation, a permanent certificate of occupancy, if required by Applicable Law) with respect to the alterations have been obtained.

Notwithstanding the foregoing, so long as no Event of Default exists and Borrower has delivered to Lender evidence demonstrating Borrower's financial ability to complete such alterations in a good, workman-like and lien free manner, then Lender's consent shall not be required with respect to alterations which consist of the repair and replacement of (i) any floor tiles or floor coverings, interior or exterior painting or other wall coverings, interior or exterior signage, roof, skylights, elevators, HVAC, chillers and other mechanical systems, (ii) parking areas (including resurfacing or restriping), lighting or new doorway entrances, (iii) interior and exterior landscaping, or (iv) the furniture in the common area of the Improvements; provided in each case such repair or replacement does not exceed the Alteration Threshold.

Section 4.22 Property Documents Covenants. Borrower agrees that without the prior consent of Lender, Borrower will not enter into any new Property Document or execute modifications to any existing Property Document if such new Property Document or such modifications will have a Material Adverse Effect. Borrower shall enforce, shall comply with, and shall use commercially reasonable efforts to cause each of the parties to each Property Document to comply with all of the terms and conditions contained in such Property Document.

Section 4.23 Annual Budget. Borrower shall not, during the continuance of a Trigger Period or Event of Default, make any expenditures that are either not provided for in the approved Annual Budget or that would, in the aggregate, cause any line item in the approved Annual Budget to be exceeded by ten percent (10%) or more measured on an annual basis, other than expenditures for non-discretionary items and expenditures required to be made by reason of the occurrence of any emergency (i.e., an unexpected event that threatens imminent harm to persons or property at the Property) and with respect to which it would be impracticable, under the circumstances, to obtain Lender's prior consent thereto.

ARTICLE 5.

ENTITY COVENANTS

Section 5.1 Single Purpose Entity/Separateness.

(a) Borrower has and will:

(i) Maintain its books and records separate from those of any other Person and maintain its books, records, resolutions and agreements as official records;

(ii) Maintain the its bank accounts separate from the bank account of any other Person and will not permit any Affiliate (other than CBL & Associates Management, Inc. and then only in accordance with the terms and provisions of the Management Agreement and this Agreement) or any other constituent party independent access to its bank account;

(iii) Not commingle its assets or funds with those of any Affiliate or constituent party or Person and hold all of its assets in its own name;

(iv) Maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate or constituent party or any other Person;

(v) Conduct its business in its own name, (except for services rendered under an arm's length business management services agreement with an Affiliate that complies with provisions of this Agreement, so long as Borrower requires that such manager, or equivalent thereof, under such business management services agreement expressly indicate in written communications on behalf of Borrower that it is acting on behalf of Borrower);

(vi) Maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other Person and not to have its assets listed on the financial statement of any other Person; provided, however, Borrower may include its financial statements as part of a consolidated financial statement if (A) such statements contain a notation that makes clear that Borrower is a separate entity and that the assets and credit of Borrower are not available to satisfy liabilities of any other Person and that the assets and credit of such other Person are not available to satisfy liabilities of Borrower (except as otherwise provided in the Loan Documents) and (B) Borrower's assets and liabilities are listed on Borrower's own separate balance sheet;

(vii) (A) File its own tax returns separate from those of any other Person, except to the extent that (I) Borrower is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law or (II) Borrower is allowed to file consolidated tax returns, in which case Borrower may include its taxable income, loss, deductions, gains or other items as part of a consolidated tax return and (B) pay any taxes required to be paid under applicable law;

(viii) Remain solvent and pay its own liabilities and expenses only out of its own funds as the same become due;

(ix) Observe all organizational formalities and procedures necessary to maintain its separate existence and preserve its existence in good standing as a single-member limited liability company under the laws of the State of Delaware;

(x) Except for capital contributions or capital distributions permitted under the terms and conditions of this Agreement and properly reflected on the books and records of Borrower, not enter into transactions with an Affiliate of Borrower, any constituent of the Borrower, or any Affiliate of any constituent party except on commercially reasonable terms substantially similar to those available to unaffiliated parties in an arms-length transaction;

(xi) Pay the salaries of its own employees, if any, only from its own funds;

(xii) Maintain a sufficient number of employees in light of its contemplated business purpose, transactions and liabilities;

(xiii) Not assume, guarantee or become obligated for any obligation of any Person, including an Affiliate, or become obligated for the debts of any Person;

(xiv) Not hold out its credit as being available to satisfy the obligations of any other Person;

(xv) Not acquire any obligations or securities of its Affiliates or owners, including partners, members or shareholders, as appropriate;

(xvi) Not incur, create or assume any indebtedness other than the Permitted Indebtedness or make or permit to remain outstanding any loan or advance to, or own or acquire any stock or securities of, any Person, except that Borrower may invest in those investments permitted under the Loan Documents and may make any advance required or expressly permitted to be made pursuant to any provisions of the Loan Documents (and permit the same to remain outstanding in accordance with such provisions);

(xvii) Allocate fairly and reasonably any overhead expenses that are shared with an Affiliate, including paying for office space and services performed by any employee of an Affiliate;

(xviii) Use separate stationery, invoices, and checks bearing its own name;

(xix) Not pledge its assets to secure the obligations of any other Person, other than to Lender to secure the Loan;

(xx) Hold itself out to the public and all other Persons as a legal entity separate and distinct from any other Person;

(xxi) Exercise reasonable efforts to correct any known misunderstanding regarding its status as a separate entity;

(xxii) Not identify itself as a department or division of any other Person, although from a marketing standpoint, the Property may be disclosed as being associated with CBL & Associates Properties, Inc., and CBL & Associates Management, Inc. may promote its services related to the Property using service marks that it uses to promote its services at other shopping centers owned directly or indirectly through affiliates by CBL & Associates Properties, Inc.; provided, however, that to the extent CBL & Associates Management, Inc. acts on behalf of Borrower, it will require that CBL & Associates Management, Inc. expressly indicate in written communications on behalf of Borrower that it is acting on behalf of Borrower;

(xxiii) Maintain capital adequate for businesses of its size and character in light of its contemplated business purposes, transactions and liabilities; provided, however, that the foregoing shall not require the Member to make additional capital contributions to Borrower;

(xxiv) Not form, acquire or hold any subsidiary or own any equity interest in any entity;

(xxv) Not hold out the assets or the creditworthiness of any Person as being available for the payment of any liability of Borrower;

(xxvi) (A) Not engage, directly or indirectly, in any business other than as described in Section 3.1 of the Borrower's Operating Agreement as in effect as of the date hereof, (B) not engage in any activity except those required to be performed under the Loan Documents or as permitted to be performed under all of them, and (C) conduct and operate its business as presently conducted and operated;

(xxvii) Cause its Board of Managers to act pursuant to a meeting or a written consent in lieu of a meeting and keep minutes of such meetings and actions and observe all other Delaware limited liability company formalities;

(xxviii) Cause its Member and other representatives to act at all times with respect to Borrower consistently and in furtherance of the foregoing and in the best interests of the Borrower;

(xxix) Not buy or hold evidence of indebtedness issued by any other Person (other than cash and "permitted investments" (as defined by the Rating Agencies));

(xxx) Not own any real property other than the Property and not own any personal property that is not necessary or incidental to the ownership and operation of the Property;

(xxxi) Maintain an arm's length relationship with its Affiliates; and

(xxxii) Not amend, modify, terminate or fail to comply with the provisions of its organizational documents, including, without limitation, Borrower's Operating Agreement.

(b) If Borrower is a limited partnership or a limited liability company (other than an Acceptable LLC), each general partner or managing member (each, an "**SPE Component Entity**") shall be a corporation or an Acceptable LLC (I) whose sole asset is its interest in Borrower, (II) which has not been and shall not be permitted to engage in any business or activity other than owning an interest in Borrower; (III) which has not been and shall not be permitted to incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation); and (IV) which has and will at all times own at least a 0.5% direct equity ownership interest in Borrower. Each such SPE Component Entity will at all times comply, and will cause Borrower to comply, with each of the representations, warranties, and covenants contained in this Article 5 (to the extent applicable) as if such representation, warranty or covenant was made directly by such SPE Component Entity. Upon the withdrawal or the disassociation of an SPE Component Entity from Borrower, Borrower shall immediately appoint a new SPE Component Entity whose articles of incorporation or organization are substantially similar to those of such SPE Component Entity and deliver a New Non-Consolidation Opinion to Lender with respect to the new SPE Component Entity and its equity owners.

(c) In the event Borrower or the SPE Component Entity is an Acceptable LLC, the limited liability company agreement of Borrower or the SPE Component Entity (as applicable)

(the “**LLC Agreement**”) shall provide that (i) upon the occurrence of any event that causes the last remaining member of Borrower or the SPE Component Entity (as applicable) (“**Member**”) to cease to be the member of Borrower or the SPE Component Entity (as applicable) (other than (A) upon an assignment by Member of all of its limited liability company interest in Borrower or the SPE Component Entity (as applicable) and the admission of the transferee in accordance with the Loan Documents and the LLC Agreement, or (B) the resignation of Member and the admission of an additional member of Borrower or the SPE Component Entity (as applicable) in accordance with the terms of the Loan Documents and the LLC Agreement), any person acting as Independent Director of Borrower or the SPE Component Entity (as applicable) shall, without any action of any other Person and simultaneously with the Member ceasing to be the member of Borrower or the SPE Component Entity (as applicable) automatically be admitted to Borrower or the SPE Component Entity (as applicable) as a member with no economic interest (“**Special Member**”) and shall continue Borrower or the SPE Component Entity (as applicable) without dissolution and (ii) Special Member may not resign from Borrower or the SPE Component Entity (as applicable) or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to Borrower or the SPE Component Entity (as applicable) as a Special Member in accordance with requirements of Delaware or Maryland law (as applicable) and (B) after giving effect to such resignation or transfer, there remains at least two (2) Independent Directors of the SPE Component Entity or Borrower (as applicable) in accordance with Section 5.2 below. The LLC Agreement shall further provide that (i) Special Member shall automatically cease to be a member of Borrower or the SPE Component Entity (as applicable) upon the admission to Borrower or the SPE Component Entity (as applicable) of the first substitute member, (ii) Special Member shall be a member of Borrower or the SPE Component Entity (as applicable) that has no interest in the profits, losses and capital of Borrower or the SPE Component Entity (as applicable) and has no right to receive any distributions of the assets of Borrower or the SPE Component Entity (as applicable), (iii) pursuant to the applicable provisions of the limited liability company act (of the State of Delaware or Maryland (as applicable, the “**Act**”), Special Member shall not be required to make any capital contributions to Borrower or the SPE Component Entity (as applicable) and shall not receive a limited liability company interest in Borrower or the SPE Component Entity (as applicable), (iv) Special Member, in its capacity as Special Member, may not bind Borrower or the SPE Component Entity (as applicable) and (v) except as required by any mandatory provision of the Act, Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, Borrower or the SPE Component Entity (as applicable) including, without limitation, the merger, consolidation or conversion of Borrower or the SPE Component Entity (as applicable); provided, however, such prohibition shall not limit the obligations of Special Member, in its capacity as Independent Director, to vote on such matters required by the Loan Documents or the LLC Agreement. In order to implement the admission to Borrower or the SPE Component Entity (as applicable) of Special Member, Special Member shall execute a counterpart to the LLC Agreement. Prior to its admission to Borrower or the SPE Component Entity (as applicable) as Special Member, Special Member shall not be a member of Borrower or the SPE Component Entity (as applicable), but Special Member may serve as an Independent Director of Borrower or the SPE Component Entity (as applicable).

(d) The LLC Agreement shall further provide that, (i) upon the occurrence of any event that causes the Member to cease to be a member of Borrower or the SPE Component Entity (as applicable) to the fullest extent permitted by law, the personal representative of

Member shall, within ninety (90) days after the occurrence of the event that terminated the continued membership of Member in Borrower or the SPE Component Entity (as applicable) agree in writing (A) to continue Borrower or the SPE Component Entity (as applicable) and (B) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of Borrower or the SPE Component Entity (as applicable) effective as of the occurrence of the event that terminated the continued membership of Member in Borrower or the SPE Component Entity (as applicable), (ii) any action initiated by or brought against Member or Special Member under any Creditors Rights Laws shall not cause Member or Special Member to cease to be a member of Borrower or the SPE Component Entity (as applicable) and upon the occurrence of such an event, the business of Borrower or the SPE Component Entity (as applicable) shall continue without dissolution, and (iii) each of Member and Special Member waives any right it might have to agree in writing to dissolve Borrower or the SPE Component Entity (as applicable) upon the occurrence of any action initiated by or brought against Member or Special Member under any Creditors Rights Laws, or the occurrence of an event that causes Member or Special Member to cease to be a member of Borrower or the SPE Component Entity (as applicable).

Section 5.2 Independent Director.

(a) The organizational documents of Borrower (to the extent Borrower is a corporation or an Acceptable LLC) or the SPE Component Entity, as applicable, shall provide that at all times there shall be at least two duly appointed members of its board of directors or managers, as applicable (each, an **“Independent Director”**) reasonably satisfactory to Lender who each shall not have been at the time of each such individual’s initial appointment, and (I) shall not have been at any time during the preceding five years, and shall not be at any time while serving as Independent Director, either (i) a shareholder (or other equity owner) of, or an officer, director (other than in its capacity as Independent Director of Borrower or an Affiliate of Borrower that is not in the direct chain of ownership of Borrower and such Affiliate of Borrower is also employed by an Approved ID Provider), partner, member or employee of, Borrower or any of its respective shareholders, partners, members, subsidiaries or affiliates, (ii) a customer of, or supplier to, or other Person who derives any of its purchases or revenues from its activities with, Borrower or any of its respective shareholders, partners, members, subsidiaries or affiliates (other than a nationally recognized company that routinely provides professional independent directors or managers and that also provides lien search, agents for service for process and other similar services to Borrower or any Constituent Members (defined below)), (iii) a Person who Controls or is under common Control with any such shareholder, officer, director, partner, member, employee supplier, customer or other Person, or (iv) a member of the immediate family of any such shareholder, officer, director, partner, member, employee, supplier, customer or other Person, and (II) shall be employed by, in good standing with and engaged by Borrower in connection with, in each case, an Approved ID Provider. A natural person who otherwise satisfies the foregoing definition other than subsection (i) by reason of being the independent director of a single purpose entity affiliated with Borrower shall not be disqualified from serving as an Independent Director of Borrower (or any SPE Component Entity) if the fees that such individual earns from serving as Independent Director of affiliates of Borrower constitute in the aggregate less than five percent (5%) of such individual’s annual income. Notwithstanding the immediately preceding sentence, an Independent Director of Borrower or any SPE Component Entity may not simultaneously serve as Independent Director of Borrower or any SPE

Component Entity and as an independent director of a special purpose entity that owns a direct or indirect equity interest in Borrower or the SPE Component Entity.

(b) The organizational documents of Borrower or the SPE Component Entity (as applicable) shall further provide that (I) the board of directors or managers of Borrower or the SPE Component Entity as applicable, and the constituent members of such entities (the “**Constituent Members**”) shall not take any action which, under the terms of any organizational documents of Borrower or the SPE Component Entity as applicable requires the unanimous vote of (1) the board of directors or managers of Borrower or the SPE Component Entity as applicable, or (2) the Constituent Members, unless at the time of such action there shall be at least two Independent Directors engaged as provided by the terms hereof; (II) any resignation, removal or replacement of any Independent Director shall not be effective without two (2) Business Days prior written notice to Lender (except in the case of the death or voluntary non-collusive resignation of an Independent Director, in which case no prior notice shall be required but Borrower shall replace such Independent Director within one (1) Business Day of the date of such death or resignation) accompanied by evidence that the replacement Independent Director satisfies the applicable terms and conditions hereof and of the applicable organizational documents; (III) to the fullest extent permitted by applicable law, including Section 18-1101(c) of the Act and notwithstanding any duty otherwise existing at law or in equity, the Independent Directors shall consider only the interests of the Constituent Members and Borrower and any SPE Component Entity (including Borrower’s and any SPE Component Entity’s respective creditors) in acting or otherwise voting on the matters provided for herein and in Borrower’s and SPE Component Entity’s organizational documents (which such fiduciary duties to the Constituent Members and Borrower and any SPE Component Entity (including Borrower’s and any SPE Component Entity’s respective creditors), in each case, shall be deemed to apply solely to the extent of their respective economic interests in Borrower or SPE Component Entity (as applicable) exclusive of (x) all other interests (including, without limitation, all other interests of the Constituent Members), (y) the interests of other affiliates of the Constituent Members, Borrower and SPE Component Entity and (z) the interests of any group of affiliates of which the Constituent Members, Borrower or SPE Component Entity is a part)); (IV) other than as provided in subsection (III) above, the Independent Directors shall not have any fiduciary duties to any Constituent Members, any directors of Borrower or SPE Component Entity or any other Person; (V) the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing under applicable law; and (VI) to the fullest extent permitted by applicable law, including Section 18-1101(e) of the Act, an Independent Director shall not be liable to Borrower, SPE Component Entity, any Constituent Member or any other Person for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct.

(c) Borrower shall not, without the unanimous written consent of all of its partners or members, as applicable, and the consent of each Independent Director (regardless of whether such Independent Director is engaged at the Borrower or SPE Component Entity level):

(i) file or consent to the filing of any bankruptcy, insolvency or reorganization case, petition or proceeding, either voluntary or involuntary, on behalf of or for the Borrower to take advantage of any Creditors Rights Laws;

- (ii) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official or a substantial portion of its Property;
- (iii) make any assignment for the benefit of the Borrower's creditors;
- (iv) admit in writing the Borrower's inability to pay its debts generally as they become due; and
- (v) take any action in furtherance of any of the foregoing.

Section 5.3 Compliance Certificate. Upon fifteen (15) days request from Lender (provided that such request shall not be made more than once per calendar year), Borrower shall provide an Officer's Certificate certifying as to Borrower's continued compliance with the terms of this Article 5 and the terms of the Cash Management Agreement.

Section 5.4 Change of Name, Identity or Structure. Borrower shall not change (or permit to be changed) Borrower's or the SPE Component Entity's (a) name, (b) identity (including its trade name or names), (c) principal place of business set forth on the first page of this Agreement or, (d) if not an individual, Borrower's or the SPE Component Entity's corporate, partnership or other structure, without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's or the SPE Component Entity's structure, without first obtaining the prior written consent of Lender (such consent not to be unreasonably withheld or delayed). Borrower shall execute and deliver to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form reasonably satisfactory to Lender listing the trade names under which Borrower or the SPE Component Entity intends to operate the Property, and representing and warranting that Borrower or the SPE Component Entity does business under no other trade name with respect to the Property.

Section 5.5 Business and Operations. Borrower will continue to engage in the businesses now conducted by it as and to the extent the same are necessary for the ownership, maintenance, management and operation of the Property. Borrower will qualify to do business and will remain in good standing under the laws of the jurisdiction as and to the extent the same are required for the ownership, maintenance, management and operation of the Property.

ARTICLE 6.

NO SALE OR ENCUMBRANCE

Section 6.1 Transfer Definitions. For purposes of this Article 6, "**Restricted Party**" shall mean Borrower, Sponsor, Guarantor, any SPE Component Entity, any Affiliated Manager, or any shareholder, partner, member or non-member manager, or any direct or indirect legal or beneficial owner of Borrower, Sponsor, Guarantor, any SPE Component Entity, any Affiliated Manager or any non-member manager; and a "**Sale or Pledge**" shall mean a voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment,

grant of any options with respect to, or any other transfer or disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest.

Section 6.2 No Sale/Encumbrance.

(a) Except as otherwise expressly permitted by this Agreement, without the prior written consent of Lender, Borrower shall not cause or permit (i) a Sale or Pledge of the Property or any part thereof or any legal or beneficial interest therein, (ii) a Sale or Pledge of an interest in any Restricted Party or (iii) any change in Control of Borrower, Sponsor, Guarantor, any Affiliated Manager, or any change in control of the day-to-day operations of the Property (collectively, a “**Prohibited Transfer**”), other than pursuant to Leases of space in the Improvements to Tenants in accordance with the provisions of Section 4.14.

(b) A Prohibited Transfer shall include, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a Tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower’s right, title and interest in and to (A) any Leases or any Rents or (B) the Property Documents; (iii) any action instituted by (or at the behest of) Borrower or its affiliates or consented to or acquiesced in by Borrower or its affiliates which results in a Property Document Event; (iv) if a Restricted Party is a corporation, any merger, consolidation or Sale or Pledge of such corporation’s stock or the creation or issuance of new stock in one or a series of transactions; (v) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Sale or Pledge of the partnership interest of any general or limited partner or any profits or proceeds relating to such partnership interests or the creation or issuance of new limited partnership interests; (vi) if a Restricted Party is a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Sale or Pledge of the membership interest of any member or any profits or proceeds relating to such membership interest; (vii) if a Restricted Party is a trust or nominee trust, any merger, consolidation or the Sale or Pledge of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests; (viii) the removal or the resignation of Manager (including, without limitation, an Affiliated Manager) other than in accordance with Section 4.15; or (ix) the consummation of Westfield’s redemption rights as set forth in Section 9.5 of the Westfield Agreement with respect to the Property.

Section 6.3 Permitted Equity Transfers. Notwithstanding the restrictions contained in this Article 6, provided no Event of Default is then continuing, the following equity transfers shall be permitted without Lender’s consent:

(a) (I) a transfer (but not a pledge) by devise or descent or by operation of law upon the death of a Restricted Party or any member, partner or shareholder of a Restricted Party or (II) a transfer (but not a pledge) of direct or indirect interests in Borrower by the then existing owners of such interests (x) to a Family Member of such owner or (y) to trusts formed for the benefit of such owner or a Family Member of such owner for estate planning purpose;

(b) the transfer (but not the pledge), in one or a series of transactions, of the stock, partnership interests or membership interests (as the case may be) in a Restricted Party;

(c) the sale, transfer or issuance of shares of common stock in any Restricted Party that is a publicly traded entity, provided such shares of common stock are listed on the New York Stock Exchange or another nationally recognized stock exchange (provided, that, the foregoing provisions of this clause (c) shall not be deemed to waive, qualify or otherwise limit Borrower's obligation to comply (or to cause the compliance with) the other covenants set forth herein and in the other Loan Documents (including, without limitation, the covenants contained herein relating to ERISA matters));

(d) a Permitted Parent Pledge;

(e) the transfer (but not a pledge), sale or issuance of operating partnership units in CBL & Associates Limited Partnership; or

(f) a Qualifying Merger of Sponsor;

provided, further, that, with respect to the transfers listed in clauses (a), (b), (d) and/or (e) above, (A) Lender shall receive not less than ten (10) Business Days prior written notice of such transfers (provided, however, with respect to transfers listed in clause (e) above, prior written notice shall not be required), (B) no such transfers shall result in a change in Control of Sponsor, Guarantor or Affiliated Manager, (C) after giving effect to such transfers, (I) Sponsor shall own at least a fifty percent (50%) direct or indirect equity ownership interest in Operating Partnership, (II) Operating Partnership shall own at least a fifty percent (50%) direct or indirect equity interest in Borrower and any SPE Component Entity; (III) Sponsor shall Control Operating Partnership, Borrower and any SPE Component Entity (provided, however, with respect to transfers listed in clause (b) above, Sponsor and/or a Qualified Equityholder which owns fifty percent (50%) direct or indirect equity interest in each of Borrower and any SPE Component Entity, may Control Borrower and any SPE Component Entity); and (IV) Sponsor shall control the day-to-day operation of the Property, (D) after giving effect to such transfers, the Property shall continue to be managed by Affiliated Manager or a New Manager approved in accordance with the applicable terms and conditions hereof, (E) such transfers shall be conditioned upon continued compliance with the relevant provisions of Article 5 hereof, (F) in the case of (1) the transfer of the management of the Property to a new Affiliated Manager in accordance with the applicable terms and conditions hereof, or (2) the transfer of any direct or indirect equity ownership interests in any Restricted Party that results in any Person and its Affiliates owning in excess of forty-nine percent (49%) of the direct or indirect equity ownership interests in Borrower or in any SPE Component Entity, such transfers shall be conditioned upon delivery to Lender of a New Non-Consolidation Opinion addressing such transfer (Lender's approval of any New Non-Consolidation Opinion not to be unreasonably withheld or delayed provided it is substantially the form off the Non-Consolidation Opinion), (G) such transfers shall be conditioned upon Borrower's ability to, after giving effect to the equity transfer in question (I) remake the representations contained herein relating to ERISA, OFAC and Patriot Act matters (and, upon Lender's request, Borrower shall deliver to Lender an Officer's Certificate containing such updated representations effective as of the date of the consummation of the applicable equity transfer) and (II) continue to comply with the covenants contained herein relating to

ERISA OFAC and Patriot Act matters, and (H) such transfers shall not cause a Property Document Event. Upon request from Lender, Borrower shall promptly provide Lender a revised version of the organizational chart delivered to Lender in connection with the Loan reflecting any equity transfer consummated in accordance with this Section 6.3.

Section 6.4 Permitted Property Transfers (Assumptions). Notwithstanding the foregoing provisions of this Article 6, Lender shall not unreasonably withhold consent to the two (2) time transfer of the Property in its entirety to, and the related assumptions of the Loan by, any Person (a “**Transferee**”) provided that, with respect to each such transfer, each of the following terms and conditions are satisfied:

(a) no Default or Event of Default has occurred;

(b) Borrower shall have (i) delivered written notice to Lender of the terms of such prospective transfer not less than thirty (30) days before the date on which such transfer is scheduled to close and, concurrently therewith, all such information concerning the proposed Transferee as Lender shall reasonably require and (ii) paid to Lender a non-refundable processing fee in the amount of \$25,000. Lender shall have the right to approve or disapprove the proposed transfer based on its then current underwriting and credit requirements for similar loans secured by similar properties which loans are sold in the secondary market, such approval not to be unreasonably withheld. In determining whether to give or withhold its approval of the proposed transfer, Lender shall consider the experience and track record of Transferee and its principals in owning and operating facilities similar to the Property, the financial strength of Transferee and its principals, the general business standing of Transferee and its principals and Transferee’s and its principals’ relationships and experience with contractors, vendors, tenants, lenders and other business entities; provided, however, that, notwithstanding Lender’s agreement to consider the foregoing factors in determining whether to give or withhold such approval, such approval shall be given or withheld based on what Lender determines to be commercially reasonable and, if given, may be given subject to such conditions as Lender may deem reasonably appropriate;

(c) Borrower shall have paid to Lender, concurrently with the closing of such prospective transfer, (i) a non-refundable assumption fee in an amount equal to one quarter of one percent (0.25%) of the then outstanding principal balance of the Loan, (ii) all reasonable out-of-pocket costs and expenses, including reasonable attorneys’ fees, incurred by Lender in connection therewith and (iii) all fees, costs and expenses of all third parties and the Rating Agencies incurred in connection therewith;

(d) Transferee assumes and agrees to pay the Debt as and when due subject to the provisions of Article 13 hereof and, prior to or concurrently with the closing of such transfer, Transferee and its constituent partners, members, shareholders, affiliates or sponsors as Lender may require, shall execute, without any cost or expense to Lender, such documents and agreements as Lender shall reasonably require to evidence and effectuate said assumption and an Affiliate of Transferee reasonably acceptable to Lender shall execute a recourse guaranty and an environmental indemnity in form and substance identical to the Guaranty and Environmental Indemnity, respectively, with such changes to each of the foregoing as may be reasonably required by Lender;

(e) Borrower and Transferee, without any cost to Lender, shall furnish any information requested by Lender for the preparation of, and shall authorize Lender to file, new financing statements and financing statement amendments and other documents to the fullest extent permitted by Applicable Law, and shall execute any additional documents reasonably requested by Lender;

(f) Borrower shall have delivered to Lender, without any cost or expense to Lender, such endorsements to Lender's Title Insurance Policy insuring that fee simple or leasehold title to the Property, as applicable, is vested in Transferee (subject to Permitted Encumbrances), hazard insurance endorsements or certificates and other similar materials as Lender may deem necessary at the time of the transfer, all in form and substance satisfactory to Lender;

(g) Transferee shall have furnished to Lender all appropriate papers evidencing Transferee's organization and good standing, and the qualification of the signers to execute the assumption of the Debt, which papers shall include certified copies of all documents relating to the organization and formation of Transferee and of the entities, if any, which are partners or members of Transferee. Transferee and such constituent partners, members or shareholders of Transferee (as the case may be), as Lender shall require, shall comply with the covenants set forth in Article 5 hereof;

(h) Transferee shall assume the obligations of Borrower under any Management Agreement or provide a new management agreement with a new manager which meets with the requirements of the Assignment of Management Agreement and Section 4.15 hereof and assign to Lender as additional security such new management agreement;

(i) Transferee shall furnish to Lender a New Non-Consolidation Opinion and an additional opinion of counsel satisfactory to Lender and its counsel (A) that Transferee's formation documents provide for the matters described in subparagraph (g) above, (B) that the assumption of the Debt has been duly authorized, executed and delivered, and that the assumption agreement and the other Loan Documents are valid, binding and enforceable against Transferee in accordance with their terms, (C) that Transferee and any entity which is a controlling stockholder, member or general partner of Transferee, have been duly organized, and are in existence and good standing, (E) that the transfer will not constitute a "significant modification" of the Loan under Section 1001 of the IRS Code or otherwise cause the Loan to fail to be a "qualified mortgage" within the meaning of Section 860G (a)(3)(A) of the IRS Code and (F) with respect to such other matters as Lender may reasonably request;

(j) if required by Lender, Lender shall have received a Rating Agency Confirmation with respect to such transfer;

(k) [Intentionally omitted];

(l) Lender shall have received evidence reasonably acceptable to Lender that a Property Document Event will not occur as a result of the proposed transfer; and

(m) Borrower's obligations under the contract of sale pursuant to which the transfer is proposed to occur shall expressly be subject to the satisfaction of the applicable terms and conditions of this Section 6.4.

Notwithstanding the foregoing or anything herein to the contrary, (i) Borrower may not exercise its rights pursuant to this Section 6.4 during the period that commences on the date that is sixty (60) days prior to the date of any intended Securitization of the Loan and ending on the date that is sixty (60) days after the date of such Securitization of the Loan and (ii) in the event that (A) the Transferee is directly and/or indirectly Controlled by Sponsor, (B) Sponsor owns directly and/or indirectly fifty percent (50%) or more of the equity interest in Transferee, (C) Sponsor shall control the day-to-day operation of the Property following such transfer and (D) Borrower has delivered written notice to Lender of the terms of such prospective transfer not less than thirty (30) days before the date on which such transfer is scheduled to close and, concurrently therewith, all such information concerning the proposed Transferee as Lender shall reasonably require, then the provisions of Sections 6.4(b) and 6.4(c)(i) hereof shall not apply.

Section 6.5 Lender's Rights. Lender reserves the right to condition the consent to a Prohibited Transfer requested hereunder upon (a) a modification of the terms hereof and on assumption of this Agreement and the other Loan Documents as so modified by the proposed Prohibited Transfer, (b) payment of a transfer fee of \$100,000.00 and all of Lender's reasonable out-of-pocket expenses incurred in connection with such Prohibited Transfer, (c) to the extent required by Lender, receipt of a Rating Agency Confirmation with respect to the Prohibited Transfer, (d) the proposed transferee's continued compliance with the covenants set forth in this Agreement, including, without limitation, the covenants in Article 5, (e) receipt of a New Non-Consolidation Opinion with respect to the Prohibited Transfer, and/or (f) such other conditions and/or legal opinions as Lender shall determine in its sole discretion to be in the interest of Lender. All expenses incurred by Lender shall be payable by Borrower whether or not Lender consents to the Prohibited Transfer. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Prohibited Transfer without Lender's consent. This provision shall apply to every Prohibited Transfer, whether or not Lender has consented to any previous Prohibited Transfer.

ARTICLE 7.

INSURANCE; CASUALTY; CONDEMNATION; RESTORATION

Section 7.1 Insurance.

(a) Borrower shall obtain and maintain, or cause to be obtained and maintained, with respect to the Property, for the mutual benefit of Borrower and Lender at all times, the following policies of insurance:

(i) insurance against loss or damage by standard perils included within the classification "All Risks Special Form Cause of Loss" (including coverage for damage caused by windstorm and hail). Such insurance shall (A) be in an amount equal to the full replacement cost of the Property and fixtures (without deduction for physical depreciation); (B) have deductibles acceptable to Lender (but in any event not in excess of \$100,000, except in the case of windstorm and earthquake coverage, which shall have deductibles not in excess of 5% of the total insurable value of the Property); (C) be paid annually in advance; (D) contain a "Replacement Cost Endorsement" with a waiver of

depreciation and an “Agreed Upon Amount Endorsement” waiving all coinsurance provisions; (E) include an ordinance or law coverage endorsement containing Coverage A: “Loss Due to Operation of Law” (with a limit equal to replacement cost), Coverage B: “Demolition Cost” and Coverage C: “Increased Cost of Construction” coverages each with limits of no less than 10% of replacement cost or such lesser amounts as Lender may require in its sole discretion; (F) permit that the improvements and other property covered by such insurance be rebuilt at another location in the event that such improvements and other property cannot be rebuilt at the location on which they are situated as of the date hereof, provided, however, the amount of proceeds shall be limited to the replacement value that would have been payable had the improvements been rebuilt at the location on which they are situated as of the date hereof. If such insurance excludes mold, then the Borrowers shall implement a mold prevention program satisfactory to Lender;

(ii) flood insurance if the Property is located in a “100 Year Flood Plain”, “special hazard area” (including Zones A and V) or other area with a high degree of flood risk in an amount equal to the maximum limit of coverage available from FEMA/FIA, plus such excess limits reasonably requested by Lender, with a deductible not in excess of \$25,000;

(iii) (commercial general liability insurance, including broad form coverage of property damage, blanket contractual liability and personal injury (including death resulting therefrom), to be on the so-called “occurrence” form containing minimum limits per occurrence of not less than \$1,000,000 with not less than a \$2,000,000 general aggregate for any policy year (with a per location aggregate if the Property is on a blanket policy). In addition, at least \$50,000,000 excess and/or umbrella liability insurance shall be obtained and maintained for any and all claims, including all legal liability imposed upon Borrower and all related court costs and attorneys’ fees and disbursements;

(iv) rental loss and/or business interruption insurance covering all risks required to be covered by the insurance provided for herein, including but not limited to, clauses (i), (ii), (v) and (viii) of this Section 7.1(a), and covering the eighteen (18) month period commencing on the date of any Casualty or Condemnation, and containing an extended period of indemnity endorsement covering the twelve (12) month period commencing on the date on which the Property has been restored, as reasonably determined by the applicable insurer (even if the policy will expire prior to the end of such period). The amount of such insurance shall be increased from time to time as and when the gross revenues from the Property increase. All Net Proceeds payable to Lender pursuant to this subsection (the “**Rent Loss Proceeds**”) shall be held by Lender in accordance with the terms of the Cash Management Agreement;

(v) insurance against loss or damage from (A) leakage of sprinkler systems, if not provided by the policy required by Section 7.1(a)(i) above, and (B) explosion of steam boilers, air conditioning equipment, high pressure piping, machinery and equipment, pressure vessels or similar apparatus now or hereafter installed in any of the Improvements (without exclusion for explosions) and insurance against loss of occupancy or use arising from any breakdown, in such amounts as are generally available

and are generally required by institutional lenders for properties comparable to the Property;

(vi) worker's compensation insurance with respect to all employees of Borrower as and to the extent required by any Governmental Authority or Applicable Law and employer's liability coverage of at least \$1,000,000 (if applicable);

(vii) during any period of repair or restoration, and only if the property and liability coverage forms do not otherwise apply, owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the insurance provided for in Section 7.1(a)(iii) above. The insurance provided for in Section 7.1(a) hereof shall (1) be written in a so-called builder's risk completed value form or equivalent coverage, including coverage for 100% of the total costs of construction on a non-reporting basis and against all risks insured against pursuant to clauses (i), (ii), (iv), (v) and (viii) of Section 7.1(a) hereof, (2) shall include permission to occupy the Property, and (3) shall contain an agreed amount endorsement waiving co-insurance provisions;

(viii) so long as the Terrorism Risk Insurance Act of 2002, as extended and modified by the Terrorism Risk Insurance Program Authorization Act of 2007 (as the same may be modified, amended, or extended, "**TRIA**") or a similar or subsequent statute is in effect, terrorism insurance for Certified and, if requested by Lender, Non-Certified acts (as such terms are defined in TRIA or similar or subsequent statute) in an amount equal to the full replacement cost of the Property (plus twelve (12) months of business interruption coverage) (the "**Terrorism Coverage**"). If TRIA or a similar or subsequent statute is not in effect, then provided that terrorism insurance is available, Borrower shall be required to carry Terrorism Coverage throughout the term of the Loan as required by the preceding sentence, but in such event Borrower shall not be required to spend on Terrorism Coverage more than two (2) times the amount of the insurance premium that is payable at such time in respect of the property and business interruption/rental loss insurance required hereunder, and if the cost of Terrorism Coverage exceeds such amount, Borrower shall purchase the maximum amount of Terrorism Coverage available with funds equal to such amount;

(ix) motor vehicle liability coverage for all owned and non owned vehicles, including rented and leased vehicles containing minimum limits per occurrence of \$1,000,000.00 (if applicable); and

(x) such other insurance as may from time to time be reasonably requested by Lender, to the extent required in similar commercial transactions.

(b) All policies of insurance (the "**Policies**" or in the singular, the "**Policy**") required pursuant to this Section 7.1 shall be issued by one or more primary insurers having a claims-paying ability of at least "A" or "A2" by each of the Rating Agencies, or by a syndicate of insurers through which at least 75% of the coverage (if there are 4 or fewer members of the syndicate) or at least 60% of the coverage (if there are 5 or more members of the syndicate) is with carriers having such claims-paying ability ratings (provided that the first layers of coverage

are from carriers rated at least “A” or “A2” and all such carriers shall have claims-paying ability ratings of not less than “BBB+” or “Baa1”) (each, a “**Qualified Insurer**”). Notwithstanding the foregoing, (i) Pennsylvania Manufacturers’ Association shall be an acceptable carrier for general liability insurance, provided that Pennsylvania Manufacturers’ Association maintains a Moody’s rating of “A3” or better; (ii) FM Global companies shall be acceptable carriers with respect to insurance on the Property level, provided that such companies maintain a minimum rating of “AA” with Fitch and (iii) in the event that FM Global is downgraded but retains a rating of “BBB” or better, FM Global shall continue to be an acceptable carrier, to the extent permitted in foregoing clause (ii), provided that it (A) is not in the primary position, and (B) provides less than 25% of total coverage, in the case of four or fewer carriers, or 40% of total coverage, in the case of five or more carriers. For purposes of determining whether the insurer ratings requirements set forth above have been satisfied, (1) any insurer that is not rated by Fitch will be regarded as having a Fitch rating that is the equivalent of the rating given to such insurer by any of Moody’s and S&P that does rate such insurer (or, if both such rating agencies rate such insurer, the lower of the two ratings), and (2) any insurer that is not rated by Moody’s will be regarded as having a Moody’s rating of “Baa1” or better if it is rated “A-” or better by S&P and will be regarded as having a Moody’s rating of “A2” or better if it is rated “A+” or better by S&P. If the ratings of any insurer providing the coverages required pursuant to this Section 5.15 shall fall below the ratings required by Lender as described above, Borrower shall replace such insurer with an insurer meeting Lender’s rating requirements as described above reasonably promptly following Borrower becoming aware of such ratings downgrade.

(c) All Policies required pursuant to this Section 7.1:

(i) shall contain deductibles that, in addition to complying with any other requirements expressly set forth in Section 7.1(a) hereof, are approved by Lender (such approval not to be unreasonably withheld, delayed or conditioned, but subject to the requirements of each Rating Agency) and are no larger than is customary for similar policies covering similar properties in the geographic market in which the Property is located, but in any event are not in excess of \$100,000 (except in the case of windstorm and earthquake coverage, which shall have deductibles not in excess of 5% of the total insurable value of the Property);

(ii) shall be maintained throughout the term of the Loan without cost to Lender and shall name Borrower as the named insured;

(iii) with respect to property policies, shall contain a standard noncontributory mortgagee clause naming Lender and its successors and assigns as their interests may appear as first mortgagee and loss payee;

(iv) with respect to liability policies, shall name Lender and its successors and assigns as their interests may appear as additional insureds;

(v) with respect to rental or business interruption insurance policies, shall name Lender and its successors and/or assigns as their interests may appear as loss payee;

(vi) shall contain an endorsement providing that neither Borrower nor Lender nor any other party shall be a co-insurer under said Policies;

(vii) shall contain an endorsement providing that Lender shall receive at least thirty (30) days' prior written notice of any modification, reduction or cancellation thereof;

(viii) shall contain an endorsement providing that no act or negligence of Borrower or of a Tenant or other occupant or any foreclosure or other proceeding or notice of sale relating to the Property shall affect the validity or enforceability of the insurance insofar as a mortgagee is concerned;

(ix) shall provide that Lender shall not be liable for any insurance premiums thereon or subject to any assessments thereunder;

(x) shall contain a waiver of subrogation against Lender;

(xi) may be in the form of a blanket policy, provided that Borrower shall provide evidence satisfactory to Lender that the insurance premiums for the Property are separately allocated under such Policy to the Property and that overall insurance limits will under no circumstance limit the amount that will be paid in respect of the Property, and provided further that any such blanket policy shall specifically allocate to the Property the amount of coverage from time to time required hereunder or shall otherwise provide the same protection as would a separate Policy in Lender's discretion, subject to review and approval by Lender based on the schedule of locations and values (which approval shall not be unreasonably withheld or delayed); and

(xii) shall otherwise be reasonably satisfactory in form and substance to Lender and shall contain such other provisions as Lender deems reasonably necessary or desirable to protect its interests.

(d) Borrower shall pay the premiums for all Policies as the same become due and payable. Not less than fifteen (15) days prior to the expiration dates of the Policies theretofore furnished to Lender pursuant to Subsection 7.1(a), Borrower shall deliver certified copies of the Policies marked "premium paid" or accompanied by evidence satisfactory to Lender of payment of the premiums due thereunder (the "**Insurance Premiums**"), provided, however, that in the case of renewal Policies, Borrower may furnish Lender with binders and the Acord Form 25 (2009/09 or later) or Acord Form 28 (2009/12) Certificate therefore to be followed by copies of the original Policies when issued. Borrower shall promptly forward to Lender a copy of each written notice received by Borrower of any modification, reduction or cancellation of any of the Policies or of any of the coverages afforded under any of the Policies. In addition, certified copies of the Policies shall be made available for inspection by Lender at the corporate office of Borrower upon reasonable advance notice, provided that during the continuance of an Event of Default or after the occurrence of a Casualty resulting in Net Proceeds in excess of the Restoration Threshold, the reasonable out-of-pocket costs of such inspection shall be at Borrower's sole cost and expense. Within thirty (30) days after request by Lender, Borrower shall obtain such increases in the amounts of coverage required hereunder as may be reasonably

requested by Lender, taking into consideration changes in the value of money over time, changes in liability laws, changes in prudent customs and practices, and the like, provided that such other insurance is commercially available and required of parties with businesses similar to that of Borrower.

(e) Borrower shall not procure any other insurance coverage that would be on the same level of payment as the Policies or would adversely impact in any way the ability of Lender or Borrower to collect any proceeds under any of the Policies. If at any time Lender is not in receipt of written evidence that all Policies are in full force and effect when and as required hereunder, Lender shall have the right to take such action as Lender deems necessary to protect its interest in the Property, including the obtaining of such insurance coverage as Lender in its sole discretion deems appropriate (but limited to the coverages and amounts required hereunder). All premiums incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Borrower to Lender upon demand and, until paid, and shall bear interest at the Default Rate.

(f) In the event of foreclosure of the Security Instrument or other transfer of title to the Property in extinguishment in whole or in part of the Debt, all right, title and interest of Borrower in and to the Policies (other than those Policies that are blanket Policies or liability Policies not solely covering the Property) then in force with respect to the Property and all proceeds payable thereunder shall thereupon vest in the purchaser at such foreclosure or in Lender or other transferee in the event of such other transfer of title.

Section 7.2 Casualty. If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty (a “**Casualty**”), and the damage is expected by Borrower to exceed \$250,000.00, then Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the completion of the repair and restoration of the Property as nearly as possible to the condition the Property was in immediately prior to such Casualty, with such alterations as may be reasonably approved by Lender (a “**Restoration**”) and otherwise in accordance with Section 7.4. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower.

Section 7.3 Condemnation. Borrower shall promptly give Lender notice of the actual or threatened commencement of any proceeding for the Condemnation of the Property of which Borrower has knowledge and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender (to the extent permitted by Applicable Law) may participate in any such proceedings, and, upon Lender’s request, Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Borrower shall not consent or agree to a Condemnation or action in lieu thereof without the prior written consent of Lender in each instance, which consent shall not be unreasonably withheld or delayed in the case of a taking of a portion of the Property that would not result in a Material Adverse Effect. Notwithstanding any taking by any public or quasi-public authority through Condemnation or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay

the Debt at the time and in the manner provided for its payment in the Note and in this Agreement and the Debt shall not be reduced until any Award shall have been actually received and applied by Lender, after the deduction of reasonable expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided herein or in the Note for interest that is due. If the Property or any portion thereof is taken by a condemning authority, Borrower shall promptly commence and diligently prosecute the Restoration of the Property and otherwise comply with the provisions of Section 7.4. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the Award, or a portion thereof sufficient to pay the Debt.

Section 7.4 Restoration. The following provisions shall apply in connection with the Restoration of the Property:

(a) If the Net Proceeds shall be less than the Restoration Threshold and the costs of completing the Restoration shall be less than the Restoration Threshold, the Net Proceeds will be disbursed by Lender to Borrower upon receipt, provided that all of the conditions set forth in Section 7.4(b)(i) are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to satisfactorily complete with due diligence the Restoration in accordance with the terms of this Agreement, but Borrower shall not be required to satisfy the requirements of Section 7.4(b)(ii) through (vii) hereof.

(b) If the Net Proceeds are equal to or greater than the Restoration Threshold or the costs of completing the Restoration are equal to or greater than the Restoration Threshold, Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Section 7.4.

(i) The Net Proceeds shall be made available for Restoration provided that each of the following conditions are met:

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

(B) (1) in the event the Net Proceeds are insurance proceeds, less than twenty-five percent (25%) of each of (i) fair market value of the Property as reasonably determined by Lender, and (ii) rentable area of the Property has been damaged, destroyed or rendered unusable as a result of a Casualty or (2) in the event the Net Proceeds are condemnation proceeds, less than fifteen percent (15%) of each of (i) the fair market value of the Property as reasonably determined by Lender and (ii) rentable area of the Property is taken, such land is located along the perimeter or periphery of the Property, no portion of the Improvements is located on such land and such taking does not materially impair the existing access to the Property;

(C) Leases demising in the aggregate a percentage amount equal to or greater than seventy five percent (75%) of the total rentable space in the Property which has been demised under executed and delivered Leases in effect as

of the date of the occurrence of such fire or other casualty or taking, whichever the case may be, shall remain in full force and effect during and after the completion of the Restoration, notwithstanding the occurrence of any such Casualty or Condemnation, whichever the case may be;

- (D) Borrower shall commence the Restoration as soon as reasonably practicable and shall diligently pursue the same to satisfactory completion in compliance with all Applicable Laws, in all material respects, including, without limitation, all applicable Environmental Laws;
- (E) Lender shall be satisfied that any operating deficits which will be incurred with respect to the Property as a result of the occurrence of any such fire or other casualty or taking will be covered out of (1) the Net Proceeds, (2) the insurance coverage referred to in Section 7.1(a)(iii) above, or (3) by other funds of Borrower;
- (F) [Intentionally omitted];
- (G) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) six (6) months prior to the Maturity Date, (2) the expiration of the insurance coverage referred to in Section 7.1(a)(iii) above, (3) the earliest date required for such completion under the terms of any Lease, or (4) such time as may be required under applicable zoning law, ordinance, rule or regulation in order to repair and restore the Property to substantially the condition it was in immediately prior to such fire or other casualty or taking, but Lender agrees that Borrower shall not be obligated to restore the Property to the precise condition it was in prior to such Casualty or Condemnation;
- (H) [Intentionally omitted];
- (I) the Property and the use thereof after the Restoration will be in material compliance with and permitted under the Property Documents and all Applicable Law;
- (J) the Property Documents will remain in full force and effect during and after the Restoration and a Property Document Event shall not occur as a result of the applicable Casualty, Condemnation and/or Restoration; and
- (K) the Restoration shall be completed in a commercially reasonable and diligent fashion and in material compliance with the Property Documents and all Applicable Law.

(ii) The Net Proceeds shall be held by Lender and, until disbursed in accordance with the provisions of this Section 7.4(b), shall constitute additional security for the Debt and other obligations under this Agreement, the Security Instrument, the Note and the other Loan Documents. The Net Proceeds (other than the Rent Loss Proceeds) shall be disbursed by Lender to, or as directed by, Borrower from time to time

during the course of the Restoration, upon receipt of evidence reasonably satisfactory to Lender that (A) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the related Restoration item have been paid for in full, and (B) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Property which have not either been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policy.

(iii) Subject to the immediately following paragraph, all plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender and by an independent consulting engineer selected by Lender (the "**Casualty Consultant**"). Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. The identity of the contractors, subcontractors and materialmen engaged in the Restoration shall be subject to prior review and reasonable acceptance by Lender and the Casualty Consultant. All reasonable costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration including, without limitation, reasonable counsel fees and disbursements and the Casualty Consultant's fees, shall be paid by Borrower; provided, however, Borrower shall not be required to pay the cost and expenses of Lender's Casualty Consultant if the estimated cost to complete the Restoration shall be less than ten percent (10%) of the then outstanding principal balance of the Loan (but this shall not affect Lender's right to retain such Casualty Consultant). Borrower shall have the right to settle all claims under the Policies jointly with Lender, provided that (a) no Event of Default exists, (b) Borrower promptly and with commercially reasonable diligence negotiates a settlement of any such claims and (c) the insurer with respect to the Policy under which such claim is brought has not raised any act of the insured as a defense to the payment of such claim. If an Event of Default exists, Lender shall, at its election, have the exclusive right to settle or adjust any claims made under the Policies in the event of a Casualty.

Notwithstanding anything to the contrary contained herein, Lender shall have thirty (30) days from receipt of written request and all required information and documentation relating to approval of all plans and specifications in which to approve or disapprove such matter, provided that such request to Lender is marked in bold lettering with the following language: "**LENDER'S RESPONSE IS REQUIRED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS NOTICE PURSUANT TO THE TERMS OF A LOAN AGREEMENT BETWEEN THE UNDERSIGNED AND LENDER.**" and the envelope containing the request must be marked "**PRIORITY**". In the event that Lender fails to respond to the matter in question within such time frames as set forth above, Lender's approval shall be deemed given for all purposes.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Casualty Consultant, minus the Restoration Retainage. The term "**Restoration Retainage**" as used in this Subsection

7.4(b) shall mean an amount equal to 10% of the costs actually incurred for work in place as part of the Restoration, as certified by the Casualty Consultant, until such time as the Casualty Consultant certifies to Lender that Net Proceeds representing 50% of the required Restoration have been disbursed. There shall be no Restoration Retainage with respect to costs actually incurred by Borrower for work in place in completing the last 50% of the required Restoration. The Restoration Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Subsection 7.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Restoration Retainage shall not be released until the Casualty Consultant certifies to Lender that the Restoration has been substantially completed in accordance with the provisions of this Subsection 7.4(b) and that all approvals necessary for the re-occupancy and use of the Property have been obtained from all appropriate governmental and quasi-governmental authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Restoration Retainage, provided, however, that Lender will release the portion of the Restoration Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Casualty Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, and the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company insuring the lien of the Security Instrument. If required by Lender, the release of any such portion of the Restoration Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.

(v) Lender shall not be obligated to make disbursements of the Net Proceeds more frequently than once every fifteen (15) days and such disbursements shall occur promptly upon receipt of all information required by Lender in order to process such disbursement in accordance with customary construction lending practices.

(vi) If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the reasonable opinion of Lender in consultation with the Casualty Consultant, be sufficient to pay in full the balance of the costs which are estimated by the Casualty Consultant to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "**Net Proceeds Deficiency**") with Lender before any further disbursement of the Net Proceeds shall be made. The Net Proceeds Deficiency deposited with Lender shall be held by Lender and shall be disbursed prior to the disbursement of any Net Proceeds for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Section 7.4(b) shall constitute additional security for the Debt and other obligations under this Agreement, the Security Instrument, the Note and the other Loan Documents. Notwithstanding the foregoing requirement of this Section 7.4(b)(vi), in the event that Lender determines there is a Net Proceeds Deficiency, Borrower shall not be required to deliver to Lender such Net Proceeds

Deficiency if (A) Borrower delivers to Lender a Letter of Credit in the amount of such Net Proceeds Deficiency or (B) Borrower delivers to Lender evidence, reasonably satisfactory to Lender, of Borrower's ability to pay the additional costs to complete the Restoration and Borrower shall expend such additional funds to pay the costs of the Restoration prior to the release by Lender of any Net Proceeds.

(vii) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Net Proceeds Deficiency deposited with Lender after the Casualty Consultant certifies to Lender that the Restoration has been substantially completed in accordance with the provisions of this Section 7.4(b), and the receipt by Lender of evidence reasonably satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full, shall be remitted by Lender to Borrower, provided no Event of Default and/or Trigger Event shall have occurred and shall be continuing under this Agreement, the Security Instrument, the Note or any of the other Loan Documents.

(c) All Net Proceeds not required (i) to be made available for the Restoration or (ii) to be returned to Borrower as excess Net Proceeds pursuant to Subsection 7.4(b)(vii) shall be retained and applied by Lender toward the payment of the Debt whether or not then due and payable in such order, priority and proportions as Lender in its discretion shall deem proper, subject to the provisions of Section 2.7(b) hereof (i.e., no prepayment penalty). If Lender shall receive and retain Net Proceeds, the lien of the Security Instrument shall be reduced only by the amount thereof received and retained by Lender and actually applied by Lender in reduction of the Debt.

(d) Notwithstanding the foregoing provisions of this Section 7.4, if the Loan is included in a REMIC Trust and, immediately following a release of any portion of the Property following a Casualty or Condemnation, the ratio of the unpaid principal balance of the Loan to the value of the remaining Property is greater than 125% (such value to be determined, in Lender's sole discretion, by any commercially reasonable method permitted to a REMIC Trust), the principal balance of the Loan must be paid down by Borrower by the least of the following amounts: (i) the Net Proceeds, (ii) the fair market value of the released Property at the time of the release, or (iii) an amount such that the loan-to-value ratio of the Loan (as so determined by Lender) does not increase after the release, unless the Lender receives an opinion of counsel that the Securitization will not fail to maintain its status as a REMIC Trust as a result of the related release of lien.

ARTICLE 8.

RESERVE FUNDS

Section 8.1 [Intentionally omitted].

Section 8.2 Replacement Reserve Funds.

(a) Borrower shall deposit with Lender on the date hereof \$3,209.55 and on each Monthly Payment Date an amount equal to \$3,209.55 (the **"Replacement Reserve Monthly**

Deposit”) for the Replacements. Amounts deposited pursuant to this Section 8.2 are referred to herein as the “**Replacement Reserve Funds**”.

(b) Lender shall disburse Replacement Reserve Funds only for Replacements. Lender shall disburse to Borrower the Replacement Reserve Funds upon satisfaction by Borrower of each of the following conditions: (i) Borrower shall submit a request for payment to Lender at least five (5) Business Days prior to the date on which Borrower requests such payment be made and specifies the Replacements to be paid; (ii) on the date such request is received by Lender and on the date such payment is to be made, no Event of Default shall exist and remain uncured, (iii) Lender shall have received a certificate from Borrower (A) stating that the items to be funded by the requested disbursement are Replacements, (B) stating that all Replacements at the Property to be funded by the requested disbursement have been completed in a good and workmanlike manner and in accordance with all Applicable Law, such certificate to be accompanied by a copy of any license, permit or other approval required by any Governmental Authority in connection with the Replacements, (C) identifying each Person that supplied materials or labor in connection with the Replacements to be funded by the requested disbursement and (D) stating that each such Person has been paid in full or will be paid in full upon such disbursement, such certificate to be accompanied by lien waivers (with respect to individual Replacements costing over \$750,000.00) or other evidence of payment satisfactory to Lender; (iv) at Lender’s option, if the cost of any individual Replacement exceeds \$750,000.00, a title search for the Property indicating that the Property is free from all liens, claims and other encumbrances other than Permitted Encumbrances; (v) at Lender’s option, if the cost of any individual Replacement exceeds \$750,000.00, Lender shall have received a report satisfactory to Lender in its reasonable discretion from an architect or engineer approved by Lender in respect of such architect or engineer’s inspection of the applicable Replacement; and (vi) Lender shall have received such other evidence as Lender shall reasonably request that the Replacements at the Property to be funded by the requested disbursement have been completed and are paid for or will be paid upon such disbursement to Borrower. Lender shall not be required to disburse Replacement Reserve Funds more frequently than once each calendar month nor in an amount less than the Minimum Disbursement Amount (or a lesser amount if the total amount of Replacement Reserve Funds is less than the Minimum Disbursement Amount, in which case only one disbursement of the amount remaining in the account shall be made) and such disbursement shall occur within five (5) Business Days of Borrower’s request therefore.

(c) Nothing in this Section 8.2 shall (i) make Lender responsible for making or completing the Replacements; (ii) require Lender to expend funds in addition to the Replacement Reserve Funds to complete any Replacements; (iii) obligate Lender to proceed with the Replacements; or (iv) obligate Lender to demand from Borrower additional sums to complete any Replacements.

(d) Borrower shall permit Lender and Lender’s agents and representatives (including, without limitation, Lender’s engineer, architect, or inspector) or third parties to enter onto the Property during normal business hours (subject to the rights of Tenants under their Leases) to inspect the progress of any Replacements and all materials being used in connection therewith and to examine all plans and shop drawings relating to such Replacements. Borrower shall cause all contractors and subcontractors to cooperate with Lender or Lender’s representatives or such other Persons described above in connection with inspections described in this Section.

(e) In addition to any insurance required under the Loan Documents, Borrower shall provide or cause to be provided workmen's compensation insurance, builder's risk, and public liability insurance and other insurance to the extent required under Applicable Law in connection with the Replacements. All such policies shall be in form and amount reasonably satisfactory to Lender.

Section 8.3 Leasing Reserve Funds.

(a) Borrower shall deposit with Lender on the date hereof \$28,979.75 and on each Monthly Payment Date the sum of \$28,979.75 (the "**Leasing Reserve Monthly Deposit**") for tenant improvements and leasing commissions that may be incurred following the date hereof. Amounts deposited pursuant to this Section 8.3 are referred to herein as the "**Leasing Reserve Funds**".

(b) Lender shall disburse to Borrower the Leasing Reserve Funds upon satisfaction by Borrower of each of the following conditions: (i) Borrower shall submit a request for payment to Lender at least five (5) Business Days prior to the date on which Borrower requests such payment be made and specifies the tenant improvement costs and leasing commissions to be paid; (ii) on the date such request is received by Lender and on the date such payment is to be made, no Event of Default shall exist and remain uncured; (iii) Lender shall have reviewed and approved the Lease in respect of which Borrower is obligated to pay or reimburse certain tenant improvement costs and leasing commissions; (iv) Lender shall have received and approved a budget for tenant improvement costs and a schedule of leasing commissions payments and the requested disbursement will be used to pay all or a portion of such costs and payments; (v) Lender shall have received a certificate from Borrower (A) stating that all tenant improvements at the Property to be funded by the requested disbursement have been completed in good and workmanlike manner and in accordance with all Applicable Law, such certificate to be accompanied by a copy of any license, permit or other approval by any Governmental Authority required in connection with the tenant improvements, (B) identifying each Person that supplied materials or labor in connection with the tenant improvements to be funded by the requested disbursement, (C) the leasing commission is due and payable to the applicable leasing agent/broker and (D) stating that each such Person has been paid in full or will be paid in full upon such disbursement, such certificate to be accompanied by lien waivers (with respect to tenant improvements costing over \$750,000.00) or other evidence of payment satisfactory to Lender; (vi) at Lender's option, if the cost of any tenant improvements exceeds \$750,000.00, a title search for the Property indicating that the Property is free from all liens, claims and other encumbrances not previously approved by Lender; and (vii) Lender shall have received such other evidence as Lender shall reasonably request that the tenant improvements at the Property and/or leasing commissions to be funded by the requested disbursement have been completed (to the extent applicable) and are paid for or will be paid upon such disbursement to Borrower. Lender shall not be required to disburse Leasing Reserve Funds more frequently than once each calendar month nor in an amount less than the Minimum Disbursement Amount (or a lesser amount if the total amount of Leasing Reserve Funds is less than the Minimum Disbursement Amount, in which case only one disbursement of the amount remaining in the account shall be made).

Section 8.4 [Intentionally omitted].

Section 8.5 [Intentionally Omitted].

Section 8.6 Tax and Insurance Funds. Borrower shall pay (or cause to be paid) to Lender on each Monthly Payment Date (a) one-twelfth of an amount which would be sufficient to pay the Taxes payable, or reasonably estimated by Lender to be payable, during the next ensuing twelve (12) months (the “**Monthly Tax Deposit**”), and (b) one-twelfth of an amount which would be sufficient to pay the Insurance Premiums due for the renewal of the coverage afforded by the Policies upon the expiration thereof (the “**Monthly Insurance Deposit**”). Amounts deposited pursuant to this Section 8.6 are herein referred to as the “**Tax and Insurance Funds**”). The initial estimated Monthly Tax Deposit is \$93,656.58. In the event Lender shall elect, after the Closing Date, to collect payments in escrow for Insurance Premiums, Borrower shall pay to Lender an initial deposit to be determined by Lender, in its reasonable discretion, to increase the amounts in the Tax and Insurance Funds to an amount which, together with anticipated monthly escrow payments, shall be sufficient to pay all Insurance Premiums as they become due. Borrower agrees to notify Lender immediately of any changes to the amounts, schedules and instructions for payment of any Taxes and Insurance Premiums of which it has or obtains knowledge and authorizes Lender or its agent to obtain the bills for Taxes directly from the appropriate taxing authority. Provided there are sufficient amounts in the Tax and Insurance Funds, and no Event of Default exists, Lender shall be obligated to pay the Taxes and Insurance Premiums as they become due on their respective due dates on behalf of Borrower by applying the Tax and Insurance Funds to the payment of such Taxes and Insurance Premiums. If the amount of the Tax and Insurance Funds shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Sections 4.5 and 7.1 hereof, Lender shall, in its discretion, return any excess to Borrower or credit such excess against future payments to be made to the Tax and Insurance Funds. If the Tax and Insurance Funds are not sufficient to pay the amounts set forth above, Borrower shall promptly pay to Lender, upon demand, an amount which Lender shall reasonably estimate as sufficient to make up the deficiency.

Notwithstanding the forgoing, Borrower shall not be required to make the Monthly Insurance Deposit as set forth above provided (i) no Event of Default or Trigger Period shall have occurred and be continuing, (ii) the liability and casualty policies maintained by Borrower covering the Property are part of a blanket or umbrella policy approved by Lender in its reasonable discretion pursuant to Section 7.1(c)(xi) hereof, including, without limitation, approval of the schedule of locations and values, (iii) Borrower provides Lender evidence of renewal of such policy pursuant to Article 7 hereof, and (iv) Borrower provides Lender paid receipts for the payment of the Insurance Premiums by no later than fifteen (15) days prior to the expiration dates of the Policies. Borrower shall immediately commence making all Monthly Insurance Deposits, as required by Lender pursuant to this Section 8.6, within five (5) days of receipt of notice from Lender of Borrower’s failure to comply with items (i), (ii), (iii) or (iv) above, which such notice shall instruct Borrower to immediately commence making all Monthly Insurance Deposits.

Lender agrees that it shall timely make any required payments with respect to Taxes for which Borrower has made deposits into the Tax and Insurance Funds to the extent such funds are available, provided that (i) no Event of Default shall be continuing, (ii) Borrower shall have timely delivered to Lender invoices or bills therefore and (iii) Lender’s access to such sums is not restricted or constrained in any manner (items (i) through (iii) above, collectively, the “**Tax**

Payment Conditions”). Lender shall pay any penalties, interest or other charges actually incurred by Borrower as a result of the failure of Lender to pay Taxes provided that (x) the Tax Payment Conditions have been satisfied and (y) such failure by Lender is the result of Lender’s gross negligence or willful misconduct.

Section 8.7 The Accounts Generally.

(a) Borrower grants to Lender a first-priority perfected security interest in each of the Reserve Funds and all sums now or hereafter deposited in the Reserve Funds as additional security for payment of the Debt. Until expended or applied in accordance herewith, the Reserve Funds shall constitute additional security for the Debt. The provisions of this Section 8.9 are intended to give Lender and/or Servicer “control” of the Reserve Funds within the meaning of the UCC. Borrower acknowledges and agrees that the Reserve Funds are subject to the sole dominion, control and discretion of Lender, its authorized agents or designees, subject to the terms hereof, and Borrower shall have no right of withdrawal with respect to any Reserve Funds except with the prior written consent of Lender or as otherwise provided herein. The Reserve Funds shall not constitute trust funds and may be commingled with other monies held by Lender.

(b) Borrower shall not, without obtaining the prior written consent of Lender, further pledge, assign or grant any security interest in the Reserve Funds or permit any lien to attach thereto, or any levy to be made thereon, or any UCC-1 Financing Statements, except those naming Lender as the secured party, to be filed with respect thereto. Lender shall have the right to file a financing statement or statements under the UCC in connection with any of the Reserve Funds with respect thereto in the form required to properly perfect Lender’s security interest therein. Borrower agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly execute and deliver all further instruments and documents, and take all further action, that may be reasonably necessary or desirable, or that Lender may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable Lender to exercise and enforce its rights and remedies hereunder with respect to any Reserve Funds.

(c) Notwithstanding anything to the contrary contained herein or in any other Loan Document, upon the occurrence and during the continuance of an Event of Default, without notice from Lender or Servicer (i) Borrower shall have no rights in respect of the Reserve Funds and (ii) Lender shall have all rights and remedies with respect to the Accounts and the amounts on deposit therein and the Reserve Funds as described in this Agreement, the Cash Management Agreement and in the Security Instrument, in addition to all of the rights and remedies available to a secured party under the UCC, and, notwithstanding anything to the contrary contained in this Agreement, the Cash Management Agreement or in the Security Instrument, may apply the Reserve Funds as Lender determines in its sole discretion including, but not limited to, payment of the Debt.

(d) The insufficiency of Reserve Funds on deposit with Lender shall not absolve Borrower of the obligation to make any payments, as and when due pursuant to this Agreement and the other Loan Documents, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.

(e) Borrower shall indemnify Lender and hold Lender harmless from and against any and all actions, suits, claims, demands, liabilities, losses, damages, obligations and costs and expenses (including litigation costs and reasonable attorneys fees and expenses) arising from or in any way connected with the Reserve Funds, the sums deposited therein or the performance of the obligations for which the Reserve Funds were established, except to the extent arising from the gross negligence or willful misconduct of Lender, its agents or employees. Borrower shall assign to Lender all rights and claims Borrower may have against all Persons supplying labor, materials or other services which are to be paid from or secured by the Reserve Funds; provided, however, that Lender may not pursue any such right or claim unless an Event of Default has occurred and remains uncured.

(f) Reserve Funds that are Interest Bearing Reserve Funds shall be held in an interest-bearing account. In no event shall Lender or any Servicer be required to select any particular interest-bearing account or the account that yields the highest rate of interest, provided that selection of the account shall be consistent with the general standards at the time being utilized by Lender or such Servicer, as applicable, in establishing similar accounts for loans of comparable type. All such interest that so becomes part of the applicable Interest Bearing Reserve Funds shall be disbursed in accordance with the disbursement procedures contained herein applicable to such Interest Bearing Reserve Funds; provided, however, that Lender may, at its election, retain any such interest for its own account during the occurrence and continuance of an Event of Default.

(g) Borrower acknowledges and agrees that it solely shall be, and shall at all times remain, liable to Lender or Servicer for all fees, charges, costs and expenses in connection with the Reserve Funds, this Agreement and the enforcement hereof, including, without limitation, any monthly or annual fees or charges as may be assessed by Lender or Servicer in connection with the administration of the Accounts and the Reserve Funds and the reasonable fees and expenses of legal counsel to Lender and Servicer as needed to enforce, protect or preserve the rights and remedies of Lender and/or Servicer under this Agreement.

(h) Borrower and Lender acknowledge and agree that upon the filing of a bankruptcy petition by or against Borrower under the Bankruptcy Code, the Reserve Funds and the Net Rental Income (whether then already in the Reserve Funds, or then due or becoming due thereafter) shall be deemed not to be property of Borrower's bankruptcy estate within the meaning of Section 541 of the Bankruptcy Code. If, however, a court of competent jurisdiction determines that, notwithstanding the foregoing characterization of the Reserve Funds and the Net Rental Income by Borrower and Lender, the Reserve Funds and/or the Net Rental Income do constitute property of Borrower's bankruptcy estate, then Borrower and Lender further acknowledge and agree that all such Net Rental Income, whether due and payable before or after the filing of the petition, are and shall be cash collateral of Lender. Borrower acknowledges that Lender does not consent to Borrower's use of such cash collateral and that, in the event Lender elects (in its sole discretion) to give such consent, such consent shall only be effective if given in writing signed by Lender. Except as provided in the immediately preceding sentence, Borrower shall not have the right to use or apply or require the use or application of such cash collateral (i) unless Borrower shall have received a court order authorizing the use of the same, and (ii) Borrower shall have provided such adequate protection to Lender as shall be required by the bankruptcy court in accordance with the Bankruptcy Code.

ARTICLE 9.

CASH MANAGEMENT AGREEMENT

Section 9.1 Cash Management Agreement. Borrower shall enter into the Cash Management Agreement on the date hereof which shall govern the collection, holding and disbursement of Rents and any other income from the Property during the term of the Loan.

Section 9.2 Cash Flow Sweep. In the event of a Trigger Period, all Excess Cash Flow (as defined in the Cash Management Agreement) shall be deposited into the Excess Cash Flow Reserve Account (as defined in the Cash Management Agreement), as more particularly set forth in Section 5 of the Cash Management Agreement.

ARTICLE 10.

EVENTS OF DEFAULT; REMEDIES

Section 10.1 Event of Default.

The occurrence of any one or more of the following events shall constitute an “**Event of Default**”:

(a) if Borrower shall fail to (i) pay when due (A) any sums which by the express terms of this Agreement and the other Loan Documents require immediate payment without any grace period or (B) sums which are payable on the Maturity Date, or (ii) pay within five (5) days when due the monthly Debt Service, any amount required to be paid into the Reserve Funds and any other sums payable under the Note, this Agreement or any of the other Loan Documents;

(b) if any of the Taxes or Other Charges is not paid when the same is due and payable except to the extent sums sufficient to pay such Taxes and Other Charges have been deposited with Lender in accordance with the terms of this Agreement and Lender’s access to such sums is not restricted or constrained in any manner;

(c) if the Policies are not kept in full force and effect or if evidence of the same is not delivered to Lender within ten (10) days of Lender’s written request, except to the extent sums sufficient to pay such Insurance Premiums have been deposited with Lender in accordance with the terms of this Agreement and Lender’s access to such sums is not restricted or constrained in any manner;

(d) if any of the representations or covenants contained in Article 5 or Article 6 hereof are breached or violated;

(e) if any representation or warranty of, or with respect to, Borrower, Sponsor, Guarantor or any member, general partner, principal or beneficial owner of any of the foregoing, made herein, in the Guaranty or in the Environmental Indemnity or in any other guaranty, or in any certificate, report, financial statement or other instrument or document furnished to Lender shall have been false or misleading in any material adverse respect when made;

(f) if (i) Borrower, any SPE Component Entity, Sponsor or Guarantor shall commence any case, proceeding or other action (A) under any Creditor's Rights Laws seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or Borrower or any managing member or general partner of Borrower, any SPE Component Entity, Sponsor or Guarantor shall make a general assignment for the benefit of its creditors; (ii) there shall be commenced against Borrower or any managing member or general partner of Borrower, any SPE Component Entity, Sponsor or Guarantor any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; (iii) there shall be commenced against Borrower, any SPE Component Entity, Sponsor or Guarantor any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of any order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; (iv) Borrower, any SPE Component Entity, Sponsor or Guarantor shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) Borrower, any SPE Component Entity, Sponsor or Guarantor shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(g) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property whether it be superior or junior in lien to the Security Instrument;

(h) subject to Section 4.16 hereof, if the Property becomes subject to any mechanic's, materialman's or other lien other than a lien for any Taxes not then due and payable and the lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of thirty (30) days;

(i) if any federal tax lien is filed against Borrower, any SPE Component Entity, Sponsor, Guarantor or the Property and same is not discharged of record (by payment, bonding or otherwise) within thirty (30) days after same is filed;

(j) if Borrower shall fail to comply with the covenants in Article 15 or otherwise fails to deliver to Lender, within ten (10) days after request by Lender, the estoppel certificates required by Section 4.13(a) or (c) hereof;

(k) if any default occurs under any guaranty or indemnity executed in connection herewith (including, without limitation, the Environmental Indemnity and/or the Guaranty) and such default continues after the expiration of applicable grace periods, if any;

(l) if any of the assumptions contained in the Non-Consolidation Opinion, or in any New Non-Consolidation Opinion are untrue or shall become untrue in any material respect;

(m) if Borrower shall fail to deliver to Lender within thirty (30) days after request by Lender any Required Financial Item;

(n) if Borrower defaults under the Management Agreement beyond the expiration of applicable notice and grace periods, if any, thereunder or if the Management Agreement is canceled, terminated or surrendered or expires pursuant to its terms, unless in such case Borrower shall enter into a new management agreement with a Qualified Manager in accordance with the applicable terms and provisions hereof;

(o) if any representation and/or covenant herein relating to ERISA matters is breached;

(p) if (i) Borrower materially defaults under the Property Documents beyond the expiration of applicable notice and grace periods, if any, thereunder, (ii) any of the Property Documents are amended, supplemented, replaced, restated or otherwise materially modified without Lender's prior written consent or if Borrower consents to a transfer of any party's interest thereunder without Lender's prior written consent, (iii) any Property Document is canceled, terminated, surrendered or expires pursuant to its terms, unless in such case Borrower enters into a replacement thereof in accordance with the applicable terms and provisions hereof or (iv) a Property Document Event occurs;

(q) if Borrower shall continue to be in default under any term, covenant or condition of this Agreement not specified in subsections (a) through (p) above or not otherwise specifically specified as an Event of Default herein, (i) for more than ten (10) Business Days after notice from Lender, in the case of any default which can be cured by the payment of a sum of money or (ii) for thirty (30) days after notice from Lender, in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of ninety (90) days (subject to further extension by Lender, in Lender's sole discretion); and/or

(r) if there shall be default under any of the other Loan Documents beyond any applicable cure periods contained in such Loan Documents, whether as to Borrower or the Property, or if any other such event shall occur or condition shall exist, if the effect of such event or condition is to accelerate the maturity of any portion of the Debt or to permit Lender to accelerate the maturity of all or any portion of the Debt.

Section 10.2 Remedies.

(a) Upon the occurrence and during the continuance of an Event of Default (other than an Event of Default described in Section 10.1(f) above with respect to Borrower and SPE Component Entity only) and at any time thereafter Lender may, in addition to any other rights or remedies available to it pursuant to this Agreement, the Security Instrument, the Note and the other Loan Documents or at law or in equity, take such action, without notice or demand, that Lender deems advisable to protect and enforce its rights against Borrower and in the Property,

including, without limitation, declaring by written notice to Borrower the Debt to be immediately due and payable, and Lender may enforce or avail itself of any or all rights or remedies provided in this Agreement, the Security Instrument, the Note and the other Loan Documents against Borrower and the Property, including, without limitation, all rights or remedies available at law or in equity. Upon any Event of Default described in Section 10.1(f) above (with respect to Borrower and SPE Component Entity only), the Debt and all other obligations of Borrower under this Agreement, the Security Instrument, the Note and the other Loan Documents shall immediately and automatically become due and payable, without notice or demand, and Borrower hereby expressly waives any such notice or demand, anything contained herein or in the Security Instrument, the Note and the other Loan Documents to the contrary notwithstanding.

(b) Upon the occurrence and during the continuance of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to Lender against Borrower under this Agreement, the Security Instrument, the Note or the other Loan Documents executed and delivered by, or applicable to, Borrower or at law or in equity may be exercised by Lender at any time and from time to time, whether or not all or any of the Debt shall be declared due and payable, and whether or not Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under this Agreement, the Security Instrument, the Note or the other Loan Documents with respect to the Property. Any such actions taken by Lender shall be cumulative and concurrent and may be pursued independently, singularly, successively, together or otherwise, at such time and in such order as Lender may determine in its sole discretion, to the fullest extent permitted by Applicable Law, without impairing or otherwise affecting the other rights and remedies of Lender permitted by Applicable Law, equity or contract or as set forth herein or in the Security Instrument, the Note or the other Loan Documents. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

(c) Lender shall have the right from time to time to partially foreclose the Security Instrument in any manner and for any amounts secured by the Security Instrument then due and payable as determined by Lender in its sole discretion including, without limitation, the following circumstances: (i) in the event Borrower defaults beyond any applicable grace period in the payment of one or more scheduled payments of principal and interest, Lender may foreclose the Security Instrument to recover such delinquent payments, or (ii) in the event Lender elects to accelerate less than the entire outstanding principal balance of the Loan, Lender may foreclose the Security Instrument to recover so much of the principal balance of the Loan as Lender may accelerate and such other sums secured by the Security Instrument as Lender may elect. Notwithstanding one or more partial foreclosures, the Property shall remain subject to the Security Instrument to secure payment of sums secured by the Security Instrument and not previously recovered.

(d) Upon the occurrence and during the continuance of an Event of Default, Lender shall have the right from time to time to sever the Note and the other Loan Documents into one or more separate notes, security instruments and other security documents (the “**Severed Loan**

Documents”) in such denominations as Lender shall determine in its sole discretion for purposes of evidencing and enforcing its rights and remedies provided hereunder. Borrower shall execute and deliver to Lender from time to time, promptly after the request of Lender, a severance agreement and such other documents as Lender shall request in order to effect the severance described in the preceding sentence, all in form and substance reasonably satisfactory to Lender. Borrower hereby absolutely and irrevocably appoints Lender as its true and lawful attorney, coupled with an interest, in its name and stead to make and execute all documents necessary or desirable to effect the aforesaid severance, Borrower ratifying all that its said attorney shall do by virtue thereof; provided, however, Lender shall not make or execute any such documents under such power until three (3) days after notice has been given to Borrower by Lender of Lender’s intent to exercise its rights under such power. Borrower shall not be obligated to pay any costs or expenses incurred in connection with the preparation, execution, recording or filing of the Severed Loan Documents and the Severed Loan Documents shall not contain any representations, warranties or covenants not contained in the Loan Documents and any such representations and warranties contained in the Severed Loan Documents will be given by Borrower only as of the Closing Date.

(e) Any amounts recovered from the Property or any other collateral for the Loan after an Event of Default may be applied by Lender toward the payment of any interest and/or principal of the Loan and/or any other amounts due under the Loan Documents in such order, priority and proportions as Lender in its sole discretion shall determine.

(f) Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder or being deemed to have cured any Event of Default hereunder, make, do or perform any obligation of Borrower hereunder in such manner and to such extent as Lender may deem necessary. Lender is authorized to enter upon the Property upon reasonable notice to Borrower for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property for such purposes, and the cost and expense thereof (including reasonable attorneys’ fees to the extent permitted by Applicable Law), with interest as provided in this Section, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any action or proceeding shall bear interest at the Default Rate, for the period after such cost or expense was incurred through and including the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by the liens, claims and security interests provided to Lender under the Loan Documents and shall be immediately due and payable upon demand by Lender therefore.

ARTICLE 11.

SECONDARY MARKET

Section 11.1 Securitization.

(a) Lender shall have the right (i) to sell or otherwise transfer the Loan or any portion thereof as a whole loan, (ii) to sell participation interests in the Loan or (iii) to securitize the

Loan or any portion thereof in a single asset securitization or a pooled loan securitization. The transaction referred to in clauses (i), (ii) and (iii) above shall hereinafter be referred to collectively as “**Secondary Market Transactions**” and the transactions referred to in clause (iii) shall hereinafter be referred to as a “**Securitization**”. Any certificates, notes or other securities issued in connection with a Securitization are hereinafter referred to as “**Securities**”.

(b) If requested by Lender, Borrower shall reasonably assist Lender (at Lender’s expense) in satisfying the market standards to which Lender customarily adheres or which may be reasonably required in the marketplace or by the Rating Agencies in connection with any Secondary Market Transactions, including, without limitation, to:

(i) (A) provide updated financial and other factual information with respect to the Property, the business operated at the Property, Borrower, Guarantor, Sponsor and Manager, (B) provide updated budgets relating to the Property and (C) permit to be performed updated appraisals, market studies, environmental reviews (Phase I’s and, if appropriate, Phase II’s), property condition reports and other due diligence investigations of the Property (the “**Updated Information**”), together, if customary, with appropriate verification of the Updated Information through letters of auditors or opinions of counsel acceptable to Lender and the Rating Agencies;

(ii) provide opinions of counsel, which may be relied upon by Lender, the Rating Agencies and their respective counsel, agents and representatives, as to non-consolidation, fraudulent conveyance, matters of Delaware and federal bankruptcy law relating to limited liability companies and true sale or any other opinion customary in Secondary Market Transactions or required by the Rating Agencies with respect to the Property and Borrower and Borrower’s Affiliates, which counsel and opinions shall be satisfactory in form and substance to Lender (in its reasonable discretion) and the Rating Agencies;

(iii) provide updated, as of the closing date of the Secondary Market Transaction, representations and warranties made in the Loan Documents and such additional representations and warranties as the Rating Agencies may require and consistent with the facts covered thereby on the date thereof;

(iv) provide such information relating to the Property Documents as Lender may reasonably request in connection with a Secondary Market Transaction, provided that no modification of a Property Documents shall be required; and

(v) execute such amendments to the Loan Documents and Borrower or any SPE Component Entity’s organizational documents as may be reasonably requested by Lender or requested by the Rating Agencies or otherwise to effect the Securitization including, without limitation, bifurcation of the Loan into two or more components and/or separate notes and/or creating a senior/subordinate note structure (any of the foregoing, a “**Loan Bifurcation**”); provided, however, that Borrower shall not be required to modify or amend any Loan Document if such modification or amendment would change the interest rate, the stated maturity or the amortization of principal set forth in the Note (except in connection with a Loan Bifurcation which may result in

varying fixed interest rates and amortization schedules, but which shall have the same initial weighted average coupon of the original Note) or otherwise increase the Borrower's obligations or decrease the Borrower's rights, under the Loan Documents other than in a de minimus manner.

Notwithstanding anything herein to the contrary, Borrower shall be responsible for any of Borrower's internal costs and expenses incurred in connection with Borrower's compliance with this Article 12 and Borrower shall continue to be responsible for the payment of any costs and expenses with respect to items which Borrower is otherwise required to deliver pursuant to the terms of the Loan Documents.

(c) If, at the time one or more Disclosure Documents are being prepared for a Securitization, Lender expects that Borrower alone or Borrower and one or more Affiliates of Borrower collectively, or the Property alone or the Property and Related Properties collectively, will be a Significant Obligor for purposes of such Securitization, Borrower shall furnish (or cause to be furnished) to Lender upon request (i) the selected financial data or, if applicable, net operating income, described in Item 1112(b)(1) of Regulation AB, if Lender expects that the principal amount of the Loan together with any Related Loans as of the cut-off date for such Securitization may, or if the principal amount of the Loan together with any Related Loans as of the cut-off date for such Securitization and at any time during which the Loan (or portion of the Loan included in such Securitization) and any Related Loans are included in a Securitization does, equal or exceed ten percent (10%) (but less than twenty percent (20%)) of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in such Securitization or (ii) the financial statements described in Item 1112(b)(2) of Regulation AB, if Lender expects that the principal amount of the Loan (or portion of the Loan included in such Securitization) together with any Related Loans as of the cut-off date for such Securitization may, or if the principal amount of the Loan together with any Related Loans as of the cut-off date for such Securitization and at any time during which the Loan (or apportion of the Loan included in such Securitization) and any Related Loans are included in a Securitization does, equal or exceed twenty percent (20%) of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in the Securitization. Such financial data or financial statements shall be furnished to Lender (A) within ten (10) Business Days after notice from Lender in connection with the preparation of Disclosure Documents for the Securitization, (B) not later than thirty (30) days after the end of each fiscal quarter of Borrower and (C) not later than seventy-five (75) days after the end of each fiscal year of Borrower; provided, however, that Borrower shall not be obligated to furnish financial data or financial statements pursuant to clauses (B) or (C) of this sentence with respect to any period for which an Exchange Act Filing is not required. If requested by Lender, and to the extent not prohibited by any applicable lease, other agreement or order, Borrower shall furnish to Lender financial data and/or financial statements for any tenant of any of the Properties if, in connection with a Securitization, Lender expects there to be, with respect to such tenant or group of affiliated tenants, a concentration within all of the mortgage loans included or expected to be included, as applicable, in the Securitization such that such tenant or group of affiliated tenants would constitute a Significant Obligor.

(d) All financial data and financial statements provided by Borrower hereunder pursuant to Section 11.1(c) and (d) hereof shall be prepared in accordance with GAAP, and shall

meet the requirements of Regulation AB. All financial statements referred to in Section 11.1(c) above shall be audited by independent accountants of Borrower (which accountants shall be acceptable to Lender) in accordance with Regulation AB and all other applicable legal requirements, shall be accompanied by the manually executed report of the independent accountants thereon, which report shall meet the requirements of Regulation AB and all applicable legal requirements, and shall be further accompanied by a manually executed written consent of the independent accountants, in form and substance acceptable to Lender, to the inclusion of such financial statements in any Disclosure Document and any Exchange Act Filing and to the use of the name of such independent accountants and the reference to such independent accountants as “experts” in any Disclosure Document and Exchange Act Filing, all of which shall be provided at the same time as the related financial statements are required to be provided. All financial data and financial statements (audited or unaudited) provided by Borrower under Section 11.1(c) shall be accompanied by an Officer’s Certificate stating that such financial statements meet the requirements set forth in the first sentence of this Section 11.1(d).

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

(f) In the event Lender determines, in connection with a Securitization, that the financial data and financial statements and (if applicable) related accountants’ reports and consents required in order to comply with Regulation AB or any amendment, modification or replacement of Regulation AB or with other legal requirements are other than as provided herein, then notwithstanding the provisions of Section 11.1(c) and (d), Lender may request, and Borrower shall promptly provide, such other financial statements and (if applicable) related accountants’ reports and consents as Lender determines to be necessary or appropriate for such compliance.

Section 11.2 Securitization Indemnification.

(a) Borrower understands that the Written Description Material may be included in disclosure documents in connection with the Securitization, including, without limitation, an offering circular, a prospectus, prospectus supplement, private placement memorandum or other offering document (each, a “**Disclosure Document**”) and may also be included in filings with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the “**Securities Act**”), or the Securities and Exchange Act of 1934, as amended (the “**Exchange Act**”), and may be made available to investors or prospective investors in the Securities, the Rating Agencies, and service providers relating to the Securitization.

(b) Borrower shall provide in connection with each of (i) a preliminary and a final private placement memorandum or (ii) a preliminary and final prospectus or prospectus supplement, as applicable, an agreement (A) certifying that Borrower has examined the Written Description Material contained in such Disclosure Documents specified by Lender and that the Written Description Material, as it relates to Borrower, Borrower Affiliates, the Loan, the

Property, Manager, Sponsor and Guarantor, does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, (B) indemnifying Lender (and for purposes of this Section 11.2, Lender hereunder shall include its officers and directors), the Affiliate of Wells Fargo Bank, National Association (“**Wells**”) that has filed the registration statement relating to the Securitization (the “**Registration Statement**”), each of its directors, each of its officers who have signed the Registration Statement and each Person that controls the Affiliate within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act (collectively, the “**Wells Group**”), and Wells, and any other placement agent or underwriter with respect to the Securitization, each of their respective directors and each Person who controls Wells or any other placement agent or underwriter within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act (collectively, the “**Underwriter Group**”) for any losses, claims, damages or liabilities (collectively, the “**Liabilities**”) to which Lender, the Wells Group or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in such Written Description Material or arise out of or are based upon the omission or alleged omission to state in the Written Description Material a material fact required to be stated in such sections or necessary in order to make the statements in such sections, in light of the circumstances under which they were made, not misleading and (C) agreeing to reimburse Lender, the Wells Group and/or the Underwriter Group for any legal or other expenses reasonably incurred by Lender, the Wells Group and the Underwriter Group in connection with investigating or defending the Liabilities; provided, however, that Borrower will be liable in any such case under clauses (B) or (C) above only to the extent that any such loss claim, damage or liability arises out of or is based upon any such untrue statement or omission made therein in reliance upon and in conformity with the Written Description Material furnished to Lender by or on behalf of Borrower in connection with the preparation of the Disclosure Document. The indemnification provided for in clauses (B) and (C) above shall be effective whether or not the indemnification agreement described above is provided; provided, however, such indemnification shall only apply if Lender shall provide to Borrower the Written Description Material to be included in the Disclosure Document, and shall allow Borrower five (5) Business Days following Borrower’s receipt thereof to advise Lender in writing of any known misstatement of a material fact or omission of a material fact required to be stated therein or necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading (and Borrower shall not be liable for any Liabilities to the extent arising from Lender’s failure to include changes to Written Description Material requested by Borrower in writing prior to inclusion in any Disclosure Documents); and if Borrower shall fail to respond within such five (5) Business Day period, Lender may deliver to Borrower a second request stating in bold and capitalized type that “**BORROWER’S FAILURE TO RESPOND TO THE ENCLOSED REQUEST WITHIN THREE (3) BUSINESS DAYS SHALL BE DEEMED APPROVAL OF THE WRITTEN DESCRIPTION MATERIAL.**” In the event Borrower fails to respond to such request within three (3) Business Days of Borrower’s receipt of such second request, Borrower shall be deemed to have approved such Written Description Material as sent by Lender. For this purpose, Borrower shall be entitled to reasonably rely on third-party reports delivered in connection with the closing of the Loan, including the environmental reports, engineering reports and appraisals, and Borrower shall not be liable for any misstatement of a material fact or omission of a material fact which had been derived from any environmental

reports, engineering reports or appraisals. Borrower shall not be required to review or indemnify Lender, the Wells Group or the Underwriter Group for any portion of any Disclosure Document or other securitization materials, other than for the information contained in the Written Description Material. The aforesaid indemnity will be in addition to any liability which Borrower may otherwise have.

(c) In connection with Exchange Act Filings, Borrower shall (i) indemnify Lender, the Wells Group and the Underwriter Group for Liabilities to which Lender, the Wells Group or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Written Description Material a material fact required to be stated in the Written Description Material in order to make the statements in the Disclosure Document, in light of the circumstances under which they were made, not misleading and (ii) reimburse Lender, the Wells Group or the Underwriter Group for any legal or other expenses reasonably incurred by Lender, the Wells Group or the Underwriter Group in connection with defending or investigating the Liabilities.

(d) Promptly after receipt by an indemnified party under this Section 11.2 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 11.2, notify the indemnifying party in writing of the commencement thereof, but the omission to so notify the indemnifying party will not relieve the indemnifying party from any liability which the indemnifying party may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the indemnifying party. In the event that any action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel satisfactory to such indemnified party. After notice from the indemnifying party to such indemnified party under this Section 11.2, such indemnified party shall pay for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation; provided, however, if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there are any legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party at the cost of the indemnifying party. The indemnifying party shall not be liable for the expenses of more than one separate counsel unless an indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to another indemnified party.

(e) In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 11.2(b) or (c) hereof is for any reason held to be unenforceable as to an indemnified party in respect of any losses, claims, damages or liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 11.2(b) or (c) hereof, the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such losses, claims, damages or liabilities (or

action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) Wells' and Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. Lender and Borrower hereby agree that it would not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.

(f) Borrower shall jointly and severally indemnify Lender and its officers, directors, partners, employees, representatives, agents and Affiliates against any Losses to which Lender or its officers, directors, partners, employees, representatives, agents and Affiliates, may become subject in connection with any indemnification to the Rating Agencies in connection with issuing, monitoring or maintaining the Securities insofar as the Losses arise out of or are based upon any untrue statement of any material fact in any information provided by or on behalf of Borrower to the Rating Agencies (the "**Covered Rating Agency Information**") or arise out of or are based upon the omission to state a material fact in the Covered Rating Agency Information required to be stated therein or necessary in order to make the statements in Covered Rating Agency Information, in light of the circumstances under which they were made, not misleading.

(g) The liabilities and obligations of both Borrower and Lender under this Section 11.2 shall survive the termination of this Agreement and the satisfaction and discharge of the Debt.

Section 11.3 Reserves/Escrows. In the event that Securities are issued in connection with the Loan, all funds held by Lender in escrow or pursuant to reserves in accordance with this Agreement and the other Loan Documents shall be deposited in "eligible accounts" at "eligible institutions" and, to the extent applicable, invested in "permitted investments" as then defined and required by the Rating Agencies. All interest earned on such eligible accounts shall be applied as set forth in Section 8.7(f) above.

Section 11.4 Servicer. At the option of Lender, the Loan may be serviced by a servicer/trustee selected by Lender (the "**Servicer**") and Lender may delegate all or any portion of its responsibilities under this Agreement and the other Loan Documents to such servicer/trustee pursuant to a servicing agreement between Lender and such Servicer, but any such fees shall of such servicer/trustee payable by Borrower shall not exceed the obligations of Borrower hereunder and under the other Loan Documents to pay Lender's costs and expenses, including, without limitation, those set forth in Section 17.6(viii) hereof.

Section 11.5 Rating Agency Costs. In connection with any Rating Agency Confirmation or other Rating Agency consent, approval or review required hereunder (other than the initial review of the Loan by the Rating Agencies in connection with a Securitization), Borrower shall pay all of the reasonable out-of-pocket costs and expenses of Lender, Servicer and each Rating Agency in connection therewith, and, if applicable, shall pay any fees imposed by any Rating Agency in connection therewith.

Section 11.6 Mezzanine Option. Lender shall have the option (the “**Mezzanine Option**”) at any time to divide the Loan into two parts, a mortgage loan and a mezzanine loan, provided, that (i) the total loan amounts for such mortgage loan and such mezzanine loan shall equal the then outstanding amount of the Loan immediately prior to Lender’s exercise of the Mezzanine Option, (ii) the weighted average interest rate of such mortgage loan and mezzanine loan shall initially equal the Interest Rate and (iii) there shall not be an increase the Borrower’s obligations or decrease the Borrower’s rights, under the Loan Documents other than in a de minimus manner. Borrower shall, at Lender’s sole cost and expense, cooperate with Lender in Lender’s exercise of the Mezzanine Option in good faith and in a timely manner, which such cooperation shall include, but not be limited to, (i) executing such amendments to the Loan Documents (provided that such amendments do not increase the Borrower’s obligations or decrease the Borrower’s rights, under the Loan Documents other than in a de minimus manner) and Borrower or any SPE Component Entity’s organizational documents as may be reasonably requested by Lender or requested by the Rating Agencies, (ii) creating one or more Single Purpose Entities (the “**Mezzanine Borrower**”), which such Mezzanine Borrower shall (A) own, directly or indirectly, 100% of the equity ownership interests in Borrower (the “**Equity Collateral**”), and (B) together with such constituent equity owners of such Mezzanine Borrower as may be designated by Lender, execute such agreements, instruments and other documents as may be reasonably required by Lender in connection with the mezzanine loan (including, without limitation, a promissory note evidencing the mezzanine loan and a pledge and security agreement pledging the Equity Collateral to Lender as security for the mezzanine loan); and (iii) delivering such opinions, title endorsements, UCC title insurance policies and other materials as may be required by Lender or the Rating Agencies.

Section 11.7 Conversion to Registered Form. At the request of Lender, Borrower shall appoint, as its agent, a registrar and transfer agent (the “**Registrar**”) reasonably acceptable to Lender which shall maintain, subject to such reasonable regulations as it shall provide, such books and records as are necessary for the registration and transfer of the Note in a manner that shall cause the Note to be considered to be in registered form for purposes of Section 163(f) of the IRS Code. The option to convert the Note into registered form once exercised may not be revoked. Any agreement setting out the rights and obligation of the Registrar shall be subject to the reasonable approval of Lender. Borrower may revoke the appointment of any particular person as Registrar, effective upon the effectiveness of the appointment of a replacement Registrar. The Registrar shall not be entitled to any fee from Borrower or Lender or any other lender in respect of transfers of the Note and other Loan Documents.

ARTICLE 12.

INDEMNIFICATIONS

Section 12.1 General Indemnification. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all actual Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks,

curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Applicable Law; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (f) the payment of any commission, charge or brokerage fee to anyone (other than a broker or other agent retained by Lender) which may be payable in connection with the funding of the Loan evidenced by the Note and secured by the Security Instrument; and/or (g) the holding or investing of the funds on deposit in the Accounts or the performance of any work or the disbursement of funds in each case in connection with the Reserve Funds; provided that such indemnity shall not, as to any Indemnified Party, be available to the extent that such Losses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnified Party. Any amounts payable to Indemnified Parties by reason of the application of this Section 12.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Indemnified Parties until paid.

Section 12.2 Mortgage and Intangible Tax and Transfer Tax Indemnification. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to (a) any tax on the making and/or recording of the Security Instrument, the Note or any of the other Loan Documents (whether due upon the making of same or upon the exercise of its remedies under the Loan Documents), and (b) any transfer tax incurred by Indemnified Parties in connection with the exercise of remedies hereunder or under any other Loan Documents.

Section 12.3 ERISA Indemnification. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion) that Indemnified Parties may incur, directly or indirectly, as a result of a default under Sections 3.7 or 4.19 of this Agreement.

Section 12.4 Duty to Defend, Legal Fees and Other Fees and Expenses. Upon written request by any Indemnified Party, Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their sole discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Borrower shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment

of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

Section 12.5 Survival. The obligations and liabilities of Borrower under this Article 12 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Security Instrument.

Section 12.6 Environmental Indemnity. Simultaneously herewith, Borrower and Guarantor have executed and delivered the Environmental Indemnity to Lender, which Environmental Indemnity is not secured by the Security Instrument.

ARTICLE 13.

EXCULPATION

Section 13.1 Exculpation.

(a) Subject to the qualifications below, Lender shall not enforce the liability and obligation of Borrower to perform and observe the obligations contained in the Note, this Agreement, the Security Instrument or the other Loan Documents by any action or proceeding wherein a money judgment or any deficiency judgment or other judgment establishing personal liability shall be sought against Borrower or any principal, director, officer, employee, beneficiary, shareholder, partner, member, trustee, agent, or Affiliate of Borrower (but specifically excluding Guarantor) or any legal representatives, successors or assigns of any of the foregoing (collectively, the “**Exculpated Parties**”), except that Lender may bring a foreclosure action, an action for specific performance or any other appropriate action or proceeding to enable Lender to enforce and realize upon its interest under the Note, this Agreement, the Security Instrument and the other Loan Documents, or in the Property, the Rents, or any other collateral given to Lender pursuant to the Loan Documents; provided, however, that, except as specifically provided herein, any judgment in any such action or proceeding shall be enforceable against Borrower only to the extent of Borrower’s interest in the Property, in the Rents and in any other collateral given to Lender, and Lender, by accepting the Note, this Agreement, the Security Instrument and the other Loan Documents, shall not sue for, seek or demand any deficiency judgment against Borrower or any of the Exculpated Parties in any such action or proceeding under or by reason of or under or in connection with the Note, this Agreement, the Security Instrument or the other Loan Documents. The provisions of this Section shall not, however, (1) constitute a waiver, release or impairment of any obligation evidenced or secured by any of the Loan Documents; (2) impair the right of Lender to name Borrower as a party defendant in any action or suit for foreclosure and sale under the Security Instrument; (3) affect the validity or enforceability of any indemnity, guaranty or similar instrument (including, without limitation, the indemnities set forth in Article 12 hereof, Section 11.2 hereof, in the Guaranty and in the Environmental Indemnity) made in connection with the Loan or any of the rights and remedies of Lender thereunder (including, without limitation, Lender’s right to enforce said rights and remedies against Borrower and/or Guarantor (as applicable) personally and without the effect of the exculpatory provisions of this Article 13); (4) impair the right of Lender to obtain the appointment of a receiver; (5) impair the enforcement of the assignment of leases and rents

contained in the Security Instrument; (6) [Intentionally omitted]; (7) constitute a prohibition against Lender to seek a deficiency judgment against Borrower in order to fully realize the security granted by the Security Instrument or to commence any other appropriate action or proceeding in order for Lender to exercise its remedies against the Property; or (8) constitute a waiver of the right of Lender to enforce the liability and obligation of Borrower, by money judgment or otherwise, to the extent of any Losses incurred by Lender (including attorneys' fees and costs reasonably incurred) arising out of or in connection with any of the following:

(i) fraud or willful misrepresentation by Borrower, Guarantor, Sponsor, or any Borrower Party in connection with the Loan or any failure to disclose a material fact;

(ii) the willful misconduct of Borrower, Guarantor, Sponsor, or any Borrower Party;

(iii) material physical waste to the Property caused by the intentional acts or intentional omissions of Borrower, Guarantor, Sponsor, or any Borrower Party (including, without limitation, any arson or abandonment of the Property) and/or the removal or disposal of any portion of the Property after an Event of Default by Borrower, Guarantor, Sponsor or any Borrower Party;

(iv) the misapplication, misappropriation or conversion by Borrower of (A) any insurance proceeds paid by reason of any loss, damage or destruction to the Property, (B) any Awards or other amounts received in connection with the Condemnation of all or a portion of the Property, (C) any Rents following an Event of Default or (D) any Tenant security deposits or Rents collected in advance;

(v) failure to pay any Taxes or Other Charges, charges for labor or materials or any other charges that can create liens on any portion of the Property (other than (x) amounts deposited with Lender as Tax and Insurance Funds for Taxes or Other Charges where Lender elects not to apply such funds toward payment of such Taxes or Other Charges owed or (y) Taxes or Other Charges owed that are contested strictly in accordance with the terms of the Loan Documents) to the extent that the revenue from the Property is sufficient to pay such amounts;

(vi) the breach of any representation, warranty, covenant or indemnification provision in the Environmental Indemnity, this Agreement or in the Security Instrument concerning Environmental Laws and Hazardous Substances and any indemnification of Lender with respect thereto in either document;

(vii) any fees or commissions paid by Borrower after the occurrence of an Event of Default to Guarantor, Sponsor and/or any Borrower Party in violation of the terms of the Note, this Agreement, the Security Instrument or the other Loan Documents;

(viii) Borrower's breach of, or failure to comply with, the representations, warranties and covenants contained in Article 15 of this Agreement and/or the provisions of Sections 11.2, 12.2 and 12.3 hereof;

(ix) failure to maintain insurance as required by this Agreement to the extent that the revenue from the Property is sufficient to pay the Insurance Premiums relating thereto (other than the failure to pay amounts deposited with Lender as Tax and Insurance Funds for Insurance Premiums to be paid to maintain such insurance where Lender elects not to apply such funds toward payment of such Insurance Premiums);

(x) the seizure or forfeiture of the Property, or any portion thereof, or Borrower's interest therein, resulting from criminal wrongdoing by Borrower, Guarantor, Sponsor, or any Borrower Party; and/or

(xi) any representation, warranty or covenant contained in Article 5 hereof is violated or breached, provided, however, that any such breach or violation with respect to Article 5 shall not result in recourse liability hereunder unless such breach was material and, within fifteen (15) days of notice from Lender, Borrower fails to cure such breach and fails to deliver to Lender a New Non-Consolidation Opinion to the effect that such failure does not negate/impair the opinion previously delivered to Lender.

(b) Notwithstanding anything to the contrary in this Agreement, the Note or any of the Loan Documents, (A) Lender shall not be deemed to have waived any right which Lender may have under Section 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Debt or to require that all collateral shall continue to secure all of the Debt owing to Lender in accordance with the Loan Documents, and (B) the Debt shall be fully recourse to Borrower in the event that: (i) any representation, warranty or covenant contained in Article 6 hereof is violated or breached; (ii) Borrower files a voluntary petition under the Bankruptcy Code or any other Creditors Rights Laws; (iii) an Affiliate, officer, director, or representative which Controls, directly or indirectly, Borrower files, or joins in the filing of, an involuntary petition against Borrower under the Bankruptcy Code or any other Creditors Rights Laws, or solicits or causes to be solicited petitioning creditors for any involuntary petition against Borrower from any Person; (iv) Borrower files an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Bankruptcy Code or any other Creditors Rights Laws, or solicits or causes to be solicited petitioning creditors for any involuntary petition from any Person; (v) any Affiliate, officer, director, or representative which Controls Borrower consents to or acquiesces in or joins in an application for the appointment of a custodian, receiver, trustee, or examiner for Borrower or any portion of the Property; (vi) Borrower makes an assignment for the benefit of creditors, or admits, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due; (vii) there is substantive consolidation of Borrower (or any Restricted Party) with any other Person in connection with any federal or state bankruptcy proceeding involving the Guarantor or any of its Affiliates; or (viii) Borrower (or any Restricted Party) contests or opposes any motion made by Lender to obtain relief from the automatic stay or seeks to reinstate the automatic stay in the event of any federal or state bankruptcy or insolvency proceeding involving the Guarantor or its Affiliates;

(c) The obligations and liabilities of Borrower under this Article 13 shall fully survive indefinitely notwithstanding any termination, satisfaction, assignment, entry of a judgment of foreclosure, exercise of any power of sale, or delivery of a deed in lieu of foreclosure of the Security Instrument.

ARTICLE 14.

NOTICES

Section 14.1 Notices. All notices or other written communications hereunder shall be deemed to have been properly given (a) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof and confirmed by telephone by sender, (b) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, or (c) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Borrower:	PARK PLAZA MALL CMBS, LLC c/o CBL & Associates Properties, Inc. 2030 Hamilton Place Blvd. CBL Center, Suite 500 Chattanooga, Tennessee 37421 Attention: Executive Vice President - Finance
With a copy to:	PARK PLAZA MALL CMBS, LLC c/o CBL & Associates Properties, Inc. 2030 Hamilton Place Blvd. CBL Center, Suite 500 Chattanooga, Tennessee 37421 Attention: General Counsel
If to Lender:	WELLS FARGO BANK, NATIONAL ASSOCIATION Wells Fargo Center 1901 Harrison Street, 2 nd Floor MAC A0227-020 Oakland, California 94612 Attention: Commercial Mortgage Servicing Facsimile No.: 866-359-5352
With a copy to:	Alston & Bird LLP 90 Park Avenue New York, New York 10016 Attention: Ellen M. Goodwin, Esq. Facsimile No.: 212-210-9444

or addressed as such party may from time to time designate by written notice to the other parties.

Either party by notice to the other may designate additional or different addresses for subsequent notices or communications.

ARTICLE 15.

FURTHER ASSURANCES

Section 15.1 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note, this Agreement or any of the other Loan Documents which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of the Note, this Agreement or such other Loan Document, Borrower will issue, in lieu thereof, a replacement thereof, dated the date of the Note, this Agreement or such other Loan Document, as applicable, in the same principal amount thereof and otherwise of like tenor.

Section 15.2 Recording of Security Instrument, etc. Borrower forthwith upon the execution and delivery of the Security Instrument and thereafter, from time to time, will cause the Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Security Instrument, this Agreement, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Security Instrument, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by Applicable Law so to do.

Section 15.3 Further Acts, etc. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Agreement or for filing, registering or recording the Security Instrument, or for complying with all Applicable Law. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements to evidence more effectively the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation, such rights

and remedies available to Lender pursuant to this Section 15.3. Borrower hereby ratifies all actions that are taken pursuant to such power of attorney in accordance with this Section 15.3.

Section 15.4 Changes in Tax, Debt, Credit and Documentary Stamp Laws.

(a) If any law is enacted or adopted or amended after the date of this Agreement which deducts the Debt from the value of the Property for the purpose of taxation and which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any, to the extent that such tax is reasonably allocable to the Loan. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than ninety (90) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of the Security Instrument or the Debt. If such claim, credit or deduction shall be required by Applicable Law, Lender shall have the option, by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

ARTICLE 16.

WAIVERS

Section 16.1 Remedies Cumulative; Waivers.

The rights, powers and remedies of Lender under this Agreement shall be cumulative and not exclusive of any other right, power or remedy which Lender may have against Borrower pursuant to this Agreement, the Security Instrument, the Note or the other Loan Documents, or existing at law or in equity or otherwise. Lender's rights, powers and remedies may be pursued singularly, concurrently or otherwise, at such time and in such order as Lender may determine in Lender's sole discretion. No delay or omission to exercise any remedy, right or power accruing upon an Event of Default shall impair any such remedy, right or power or shall be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Default or Event of Default with respect to Borrower shall not be construed to be a waiver of any subsequent Default or Event of Default by Borrower or to impair any remedy, right or power consequent thereon.

Section 16.2 Modification, Waiver in Writing.

No modification, amendment, extension, discharge, termination or waiver of any provision of this Agreement, the Security Instrument, the Note and the other Loan Documents, nor consent to any departure by Borrower therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against whom enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on Borrower, shall entitle Borrower to any other or future notice or demand in the same, similar or other circumstances.

Section 16.3 Delay Not a Waiver.

Neither any failure nor any delay on the part of Lender in insisting upon strict performance of any term, condition, covenant or agreement, or exercising any right, power, remedy or privilege under this Agreement, the Security Instrument, the Note or the other Loan Documents, or any other instrument given as security therefor, shall operate as or constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other future exercise, or the exercise of any other right, power, remedy or privilege. In particular, and not by way of limitation, by accepting payment after the due date of any amount payable under this Agreement, the Security Instrument, the Note or the other Loan Documents, Lender shall not be deemed to have waived any right either to require prompt payment when due of all other amounts due under this Agreement, the Security Instrument, the Note and the other Loan Documents, or to declare a default for failure to effect prompt payment of any such other amount.

Section 16.4 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND LENDER, BY ACCEPTANCE OF THIS AGREEMENT, HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THE APPLICATION FOR THE LOAN, THIS AGREEMENT, THE NOTE, THE SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS OR ANY ACTS OR OMISSIONS OF LENDER OR BORROWER.

Section 16.5 Waiver of Notice.

Borrower shall not be entitled to any notices of any nature whatsoever from Lender except (a) with respect to matters for which this Agreement specifically and expressly provides for the giving of notice by Lender to Borrower and (b) with respect to matters for which Lender is required by Applicable Law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Agreement does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 16.6 Remedies of Borrower.

In the event that a claim or adjudication is made that Lender or its agents have acted unreasonably or unreasonably delayed acting in any case where by Applicable Law or under this Agreement, the Security Instrument, the Note and the other Loan Documents, Lender or such agent, as the case may be, has an obligation to act reasonably or promptly, Borrower agrees that neither Lender nor its agents shall be liable for any monetary damages, and Borrower's sole remedies shall be limited to commencing an action seeking injunctive relief or declaratory judgment. The parties hereto agree that any action or proceeding to determine whether Lender has acted reasonably shall be determined by an action seeking declaratory judgment. Lender agrees that, in such event, it shall cooperate in expediting any action seeking injunctive relief or declaratory judgment.

Section 16.7 Marshalling and Other Matters.

Borrower hereby waives, to the extent permitted by Applicable Law, the benefit of all appraisement, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale under the Security Instrument of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of the Security Instrument on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of the Security Instrument and on behalf of all persons to the extent permitted by Applicable Law.

Section 16.8 Waiver of Statute of Limitations.

To the extent permitted by Applicable Law, Borrower hereby expressly waives and releases to the fullest extent permitted by Applicable Law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its obligations hereunder, under the Note, Security Instrument or other Loan Documents.

Section 16.9 Waiver of Counterclaim. Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by Lender or its agents.

Section 16.10 Sole Discretion of Lender. Wherever pursuant to this Agreement (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision to approve or disapprove all decisions that arrangements or terms are satisfactory or not satisfactory, and all other decisions and determinations made by Lender, shall be in the sole discretion of Lender, except as may be otherwise expressly and specifically provided herein.

ARTICLE 17.

MISCELLANEOUS

Section 17.1 Survival. This Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by Lender of the Loan and the execution and delivery to Lender of the Note, and shall continue in full force and effect so long as all or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth in this Agreement, the Security Instrument, the Note or the other Loan Documents. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Agreement, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and assigns of Lender.

Section 17.2 Governing Law.

(A) THIS AGREEMENT WAS NEGOTIATED IN THE STATE OF NEW YORK AND MADE BY LENDER AND ACCEPTED BY BORROWER IN THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIEN AND SECURITY INTEREST CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS AGREEMENT AND THE NOTE, AND THIS AGREEMENT AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON

VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING.

(c) Borrower does hereby designate and appoint:

CBL & Associates Properties, Inc.
2030 Hamilton Place Blvd.
CBL Center, Suite 500
Chattanooga, Tennessee 37421
Attention: General Counsel

as its authorized agent to accept and acknowledge on its behalf service of any and all process which may be served in any suit, action or proceeding in any Federal or State court sitting in the State of New York, and agrees that service of process upon said agent at said address and written notice of said service mailed or delivered to Borrower in the manner set forth in Section 14.1 of the Loan Agreement shall be deemed in every respect effective service of process upon Borrower, in any such suit, action or proceeding. Borrower (i) shall give prompt written notice to Lender of any changed address of its authorized agent hereunder, (ii) may at any time and from time to time designate a substitute authorized agent and (iii) shall promptly designate such a substitute if its authorized agent is dissolved without leaving a successor.

(d) Borrower irrevocably consents to service of process as set forth in subsection (c) above and agrees that such service of process shall have the same force and effect as if served personally upon Borrower within the State of New York. Further, Borrower acknowledges and agrees that Borrower shall not contest the validity or legality of service of process upon Borrower in accordance with the foregoing in any legal proceeding.

Section 17.3 Headings. The Article and/or Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

Section 17.4 Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision of this Agreement shall be prohibited by or invalid under Applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

Section 17.5 Preferences. Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by Borrower to any portion of the obligations of Borrower hereunder. To the extent Borrower makes a payment or payments to Lender, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any Creditors Rights Laws, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the obligations hereunder or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by Lender.

Section 17.6 Expenses. Borrower covenants and agrees to pay or, if Borrower fails to pay, to reimburse, Lender within ten (10) Business Days of receipt of written notice from Lender for all reasonable, out-of-pocket costs and expenses (including reasonable, actual attorneys' fees and disbursements) reasonably incurred by Lender in accordance with this Agreement in connection with (i) the preparation, negotiation, execution and delivery of this Agreement, the Security Instrument, the Note and the other Loan Documents and the consummation of the transactions contemplated hereby and thereby and all the costs of furnishing all opinions by counsel for Borrower (including without limitation any opinions requested by Lender as to any legal matters arising under this Agreement, the Security Instrument, the Note and the other Loan Documents with respect to the Property); (ii) Borrower's ongoing performance of and compliance with Borrower's respective agreements and covenants contained in this Agreement, the Security Instrument, the Note and the other Loan Documents on its part to be performed or complied with after the Closing Date, including, without limitation, confirming compliance with environmental and insurance requirements and Borrower's compliance with and cooperation under Section 11.1 hereof; (iii) Lender's ongoing performance and compliance with all agreements and conditions contained in this Agreement, the Security Instrument, the Note and the other Loan Documents on its part to be performed or complied with after the Closing Date; (iv) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Agreement, the Security Instrument, the Note and the other Loan Documents and any other documents or matters requested by Borrower (or requested by Lender during the continuance of an Event of Default); (v) securing Borrower's compliance with any requests made pursuant to the provisions of this Agreement; (vi) the filing and recording fees and expenses, title insurance and reasonable fees and expenses of counsel for providing to Lender all required legal opinions, and other similar expenses incurred in creating and perfecting the lien in favor of Lender pursuant to this Agreement, the Security Instrument, the Note and the other Loan Documents; (vii) enforcing or preserving any rights, in response to third party claims or the prosecuting or defending of any action or proceeding or other litigation, in each case against, under or affecting Borrower, this Agreement, the Security Instrument, the Note, the other Loan Documents, the Property, or any other security given for the Loan; and (viii) enforcing any obligations of or collecting any payments due from Borrower under this Agreement, the Security Instrument, the Note and the other Loan Documents or with respect to the Property or in connection with any "special servicing" of the Loan or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or of any insolvency or bankruptcy proceedings (including, without limitation, loan servicing or special servicing fees, loan advances, and "work-out" and/or liquidation fees); provided, however, that Borrower shall not be liable for the payment of any such costs and expenses to the extent the same arise by reason of the gross negligence, illegal acts, fraud or willful misconduct of Lender. Borrower also acknowledges and agrees that formal written appraisals of the Property by a licensed independent appraiser may be required by Lender's internal procedures and/or federal regulatory reporting requirements on an annual and/or specialized basis and that Lender may, at its option, require inspection of the Property by an independent supervising architect and/or cost engineering specialist at least semiannually. If any of the services described above are provided by an employee of Lender, Lender's costs and expenses for such services shall be calculated in accordance with Lender's standard charge for such services. Notwithstanding the foregoing, Borrower shall not be required to pay for more than one appraisal in any twelve (12) month

period unless an Event of Default occurs and is continuing or as otherwise required by law. In addition, if Borrower is undertaking a Restoration or is performing any work at the Property that requires the obtaining of a building permit, then Borrower shall pay the reasonable out-of-pocket costs of architect's engineers and other consultants retained by Lender to review the performance of such Restoration or work. Any amounts payable to Lender pursuant to this Section 17.6 shall become immediately due and payable upon written demand and, if the same is not paid within five (5) Business Days from such written demand, shall bear interest at the Default Rate from the date which is five (5) Business Days from such written demand until the date such amounts have been paid.

Section 17.7 Cost of Enforcement. In the event (a) that the Security Instrument is foreclosed in whole or in part, (b) of the bankruptcy, insolvency, rehabilitation or other similar proceeding in respect of Borrower or any of its constituent Persons or an assignment by Borrower or any of its constituent Persons for the benefit of its creditors, or (c) Lender exercises any of its other remedies under this Agreement, the Security Instrument, the Note and the other Loan Documents, Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including attorneys' fees and costs, incurred by Lender or Borrower in connection therewith and in connection with any appellate proceeding or post judgment action involved therein, together with all required service or use taxes. Any amounts payable to Lender pursuant to this Section 17.7 shall become immediately due and payable upon written demand and, if the same is not paid within ten (10) Business Days from such written demand, shall bear interest at the Default Rate from the date which is ten (10) Business Days from such written demand until the date such amounts have been paid.

Section 17.8 Exhibits and Schedules Incorporated. The Exhibits and Schedules annexed hereto are hereby incorporated herein as a part of this Agreement with the same effect as if set forth in the body hereof.

Section 17.9 Offsets, Counterclaims and Defenses. Any assignee of Lender's interest in and to this Agreement, the Security Instrument, the Note and the other Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses which are unrelated to such documents which Borrower may otherwise have against any assignor of such documents, and no such unrelated counterclaim or defense shall be interposed or asserted by Borrower in any action or proceeding brought by any such assignee upon such documents and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by Borrower.

Section 17.10 No Joint Venture or Partnership; No Third Party Beneficiaries.

(a) Borrower and Lender intend that the relationships created under this Agreement, the Security Instrument, the Note and the other Loan Documents be solely that of borrower and lender. Nothing herein or therein is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Borrower and Lender nor to grant Lender any interest in the Property other than that of mortgagee, beneficiary or lender. This Agreement, the Security Instrument, the Note and the other Loan Documents are solely for the benefit of Lender and Borrower and nothing contained in this Agreement, the Security Instrument, the Note or the

other Loan Documents shall be deemed to confer upon anyone other than Lender and Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Lender to make the Loan hereunder are imposed solely and exclusively for the benefit of Lender and no other Person shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will refuse to make the Loan in the absence of strict compliance with any or all thereof and no other Person shall under any circumstances be deemed to be a beneficiary of such conditions, any or all of which may be freely waived in whole or in part by Lender if, in Lender's sole discretion, Lender deems it advisable or desirable to do so.

(c) The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

(d) Notwithstanding anything to the contrary contained herein, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(e) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Agreement, the Security Instrument, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

(f) Borrower recognizes and acknowledges that in accepting this Agreement, the Note, the Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the representations and warranties set forth in Article 3 of this Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept the this Agreement, the Note, the Security Instrument and the other Loan Documents in the absence of the warranties and representations as set forth in Article 3 of this Agreement.

Section 17.11 Publicity. All news releases, publicity or advertising by Borrower or its Affiliates through any media intended to reach the general public which refers to this Agreement, the Note, the Security Instrument or the other Loan Documents or the financing evidenced by this Agreement, the Note, the Security Instrument or the other Loan Documents, to Lender or any of its Affiliates shall be subject to the prior written approval of Lender, not to be unreasonably withheld.

Section 17.12 Conflict; Construction of Documents; Reliance. In the event of any conflict between the provisions of this Agreement and the Security Instrument, the Note or any of the other Loan Documents, the provisions of this Agreement shall control. Wherever the phrase “during the continuance of an Event of Default” or the like appears herein or in any other Loan Document, such phrase shall not mean or imply that Lender has any obligation to accept a cure of such Event of Default. The parties hereto acknowledge that they were represented by competent counsel in connection with the negotiation, drafting and execution of this Agreement, the Note, the Security Instrument and the other Loan Documents and this Agreement, the Note, the Security Instrument and the other Loan Documents shall not be subject to the principle of construing their meaning against the party which drafted same. Borrower acknowledges that, with respect to the Loan, Borrower shall rely solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Lender or any parent, subsidiary or Affiliate of Lender. Lender shall not be subject to any limitation whatsoever in the exercise of any rights or remedies available to it under this Agreement, the Note, the Security Instrument and the other Loan Documents or any other agreements or instruments which govern the Loan by virtue of the ownership by it or any parent, subsidiary or Affiliate of Lender of any equity interest any of them may acquire in Borrower, and Borrower hereby irrevocably waives the right to raise any defense or take any action on the basis of the foregoing with respect to Lender’s exercise of any such rights or remedies. Borrower acknowledges that Lender engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse-to or competitive with the business of Borrower or its Affiliates.

Section 17.13 Entire Agreement. This Agreement, the Note, the Security Instrument and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written between Borrower and Lender are superseded by the terms of this Agreement, the Note, the Security Instrument and the other Loan Documents.

Section 17.14 Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 17.15 Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be duly executed by their duly authorized representatives, all as of the day and year first above written.

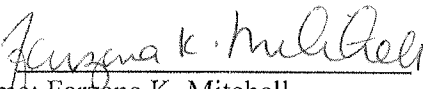
BORROWER:

PARK PLAZA MALL CMBS, LLC, a Delaware limited liability company

By: **CW Joint Venture, LLC**, a Delaware limited liability company, its chief manager

By: **CBL & Associates Limited Partnership**, a Delaware limited partnership, its manager

By: **CBL Holdings I, Inc.**, a Delaware corporation, its general partner

By: 
Name: Farzana K. Mitchell
Title: Executive Vice President – Finance

zmt

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

LENDER:

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: 

Name: *Jeffrey Cirillo*

Title: *Director*

EXHIBIT A

ADDITIONAL DEFINITIONS

“Underwritten NOI” shall mean, with respect to any Test Period, the excess of (i) Operating Revenues for such Test Period, minus (ii) Operating Expenses for such Test Period.

INCOME

“Operating Revenues” means, for any period, all operating revenues of Borrower from the Property during such period, determined in accordance with GAAP (but without straight-lining of rents), other than (i) Net Proceeds (but Operating Revenues will include rental loss insurance proceeds to the extent allocable to such period), (ii) any revenue attributable to a Lease that is not a Qualifying Lease, (iii) any revenue attributable to a Lease to the extent it is paid more than 30 days prior to the due date, (iv) any interest income from any source, (v) any repayments received from any third party of principal loaned or advanced to such third party by Borrower, (vi) any proceeds resulting from the whole or partial conveyance of all or any portion of the Property, (vii) sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any government or governmental agency, and (viii) any other extraordinary or non-recurring items.

“Qualifying Lease” means all Leases other than (i) Leases to a Tenant that is not in occupancy at the Property and open for business at the Property and (ii) Leases to a Tenant that is in default under its Lease or is the subject of bankruptcy or similar insolvency proceedings (to the extent that such Tenant has not assumed such Lease in bankruptcy).

EXPENSE

“Operating Expenses” shall mean for any period, all operating, renting, administrative, management, legal and other ordinary expenses of Borrower during such period, determined in accordance with GAAP, provided, however, that such expenses shall not include (i) depreciation, amortization or other noncash items (other than expenses that are due and payable but not yet paid), (ii) interest, principal or any other sums due and owing with respect to the Loan, (iii) income taxes or other taxes in the nature of income taxes, (iv) Capital Expenditures, (v) any expenses reasonably capitalized by Borrower in accordance with GAAP, or (vi) equity distributions.

“Capital Expenditure” means hard and soft costs incurred by Borrower with respect to replacements and capital repairs made to the Property (including repairs to, and replacements of, structural components, roofs, building systems, parking garages and parking lots), in each case to the extent capitalized in accordance with GAAP.

[NO FURTHER TEXT ON THIS PAGE]

SCHEDULE I

[INTENTIONALLY OMITTED]

SCHEDULE II
REPLACEMENTS

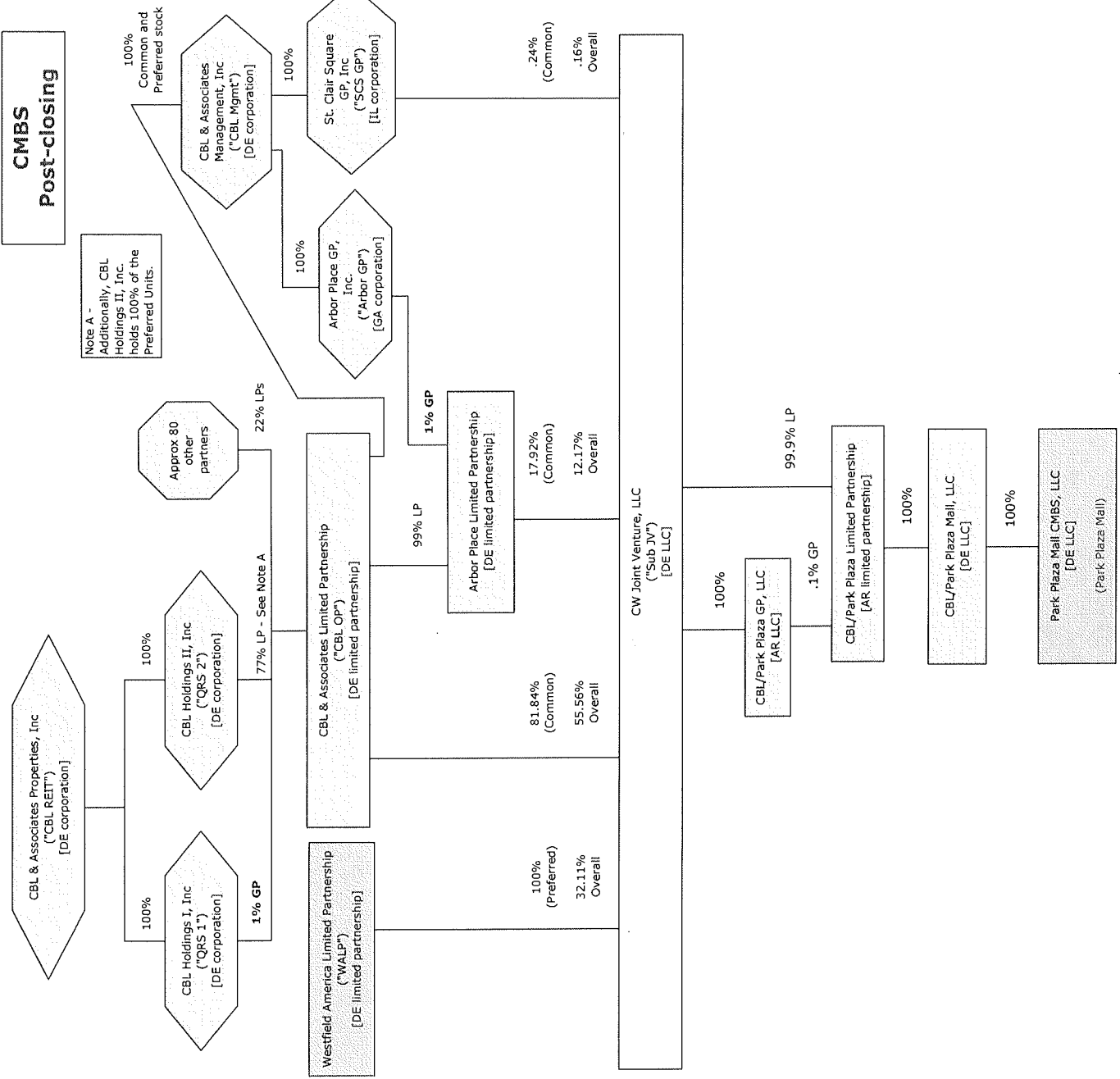
None.

SCHEDULE III

ORGANIZATIONAL CHART

(attached hereto)

Park Plaza Mall CBL Structure



SCHEDULE IV

DESCRIPTION OF REA'S

1. Construction, Operation and Reciprocal Easement Agreement by and among Construction Developers, Incorporated, an Arkansas corporation, Dillard Department Stores, Inc., a Delaware corporation and Herring-Marathon Master Partnership B, a Texas general partnership, made effective as of December 31, 1986, filed for record December 31, 1986 and recorded as Instrument No. 86-82744 in the Pulaski County Real Estate Recorders' Office; as amended by that certain First Amendment to Construction, Operation and Reciprocal Easement Agreement, dated December 31, 1986, filed for record July 27, 1988 and recorded as Instrument No. 88-39542; as assigned by Assignment and Assumption of Operating Agreement dated February 5, 1996, filed for record February 15, 1996 and recorded as Instrument No. 96-13164; Assignment of Reciprocal Easement Agreement dated September 20, 1996, recorded as Instrument No. 96-68743; Assignment of Reciprocal Easement Agreement dated April 20, 2000, recorded as Instrument No. 2000027336; and Assignment of Reciprocal Easement Agreement dated June 22, 2004, filed for record June 23, 2004 and recorded as Instrument No. 2004050062.

SCHEDULE V

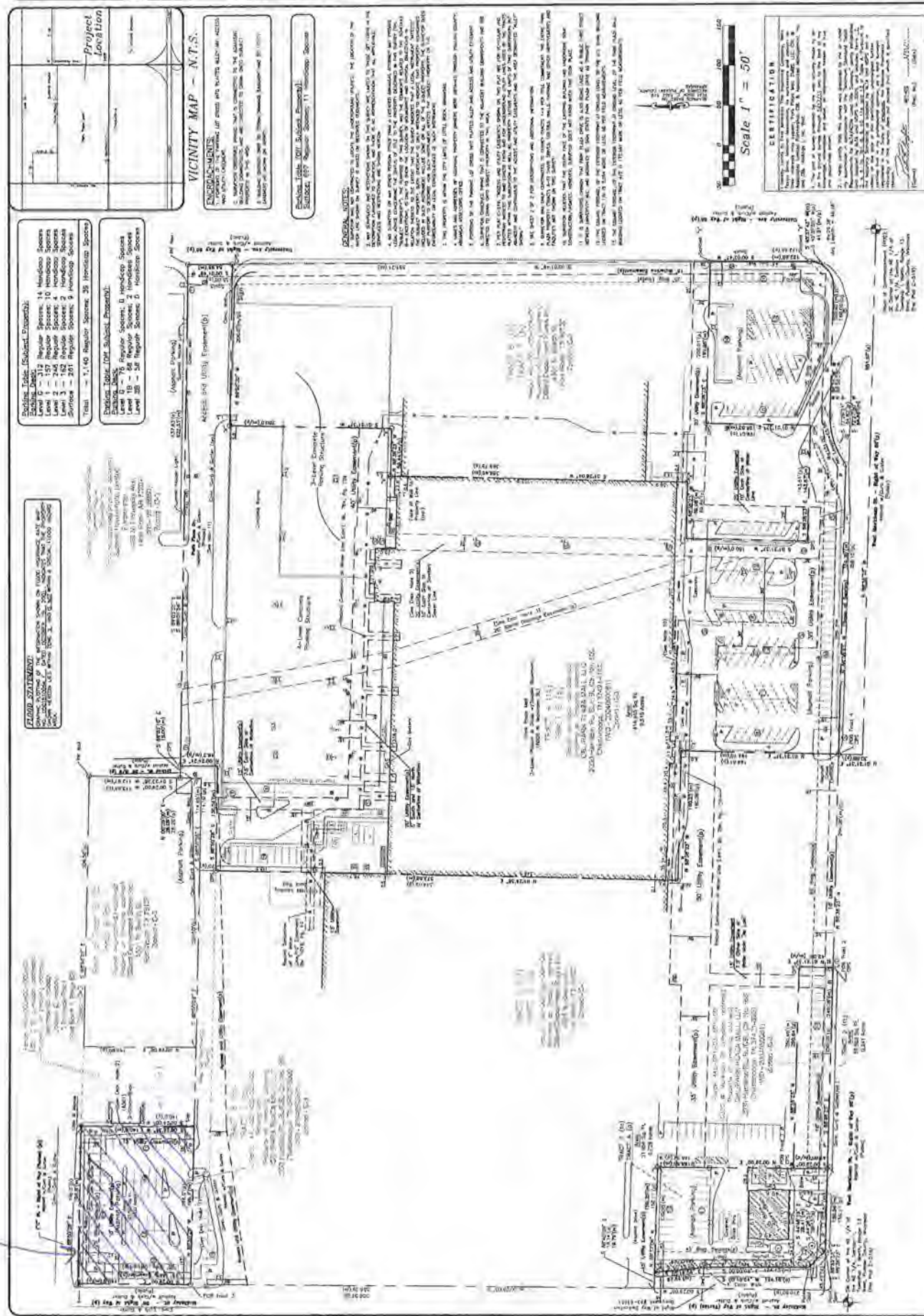
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SCHEDULE VI

DESIGNATED RELEASE PARCEL

(attached hereto)

Release Parcel



Section Table (Subject Property)

Section	Area (Acres)	Area (Sq. Ft.)
Section 1	1.140	61,920
Section 2	1.140	61,920
Section 3	1.140	61,920
Section 4	1.140	61,920
Section 5	1.140	61,920
Section 6	1.140	61,920
Section 7	1.140	61,920
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Section 11	1.140	61,920
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Section 14	1.140	61,920
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Section 33	1.140	61,920
Section 34	1.140	61,920
Section 35	1.140	61,920
Section 36	1.140	61,920
Section 37	1.140	61,920
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Section 98	1.140	61,920
Section 99	1.140	61,920
Section 100	1.140	61,920

ALBION STATEMENT
The undersigned, being a duly qualified and licensed surveyor, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the property herein described, and that the same is a true and correct copy of the original survey as shown to me by the owner of the property herein described.

Section Table (Other Subject Property)

Section	Area (Acres)	Area (Sq. Ft.)
Section 1	1.140	61,920
Section 2	1.140	61,920
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Section 86	1.140	61,920
Section 87	1.140	61,920
Section 88	1.140	61,920
Section 89	1.140	61,920
Section 90	1.140	61,920
Section 91	1.140	61,920
Section 92	1.140	61,920
Section 93	1.140	61,920
Section 94	1.140	61,920
Section 95	1.140	61,920
Section 96	1.140	61,920
Section 97	1.140	61,920
Section 98	1.140	61,920
Section 99	1.140	61,920
Section 100	1.140	61,920

Project Location

Project Location	Project Location
Project Location	Project Location

VICINITY MAP - N.T.S.
The following is a vicinity map showing the location of the property herein described in relation to the surrounding area. The map is not to scale and is for informational purposes only.

GENERAL NOTES:
1. The survey was made by the undersigned, being a duly qualified and licensed surveyor, and the same is a true and correct copy of the original survey as shown to me by the owner of the property herein described.
2. The survey was made by the undersigned, being a duly qualified and licensed surveyor, and the same is a true and correct copy of the original survey as shown to me by the owner of the property herein described.
3. The survey was made by the undersigned, being a duly qualified and licensed surveyor, and the same is a true and correct copy of the original survey as shown to me by the owner of the property herein described.

SECTION 1
The following is a description of the property herein described, to-wit: A certain lot or lots of land, situated in the County of ... State of ... containing ... acres, more or less, and bounded by ...

SECTION 2
The following is a description of the property herein described, to-wit: A certain lot or lots of land, situated in the County of ... State of ... containing ... acres, more or less, and bounded by ...

SECTION 3
The following is a description of the property herein described, to-wit: A certain lot or lots of land, situated in the County of ... State of ... containing ... acres, more or less, and bounded by ...

DESIGNATED RELEASE PARCEL

Tract 3:

Tract C, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Known as Tax Parcel Number 44L-001-03-003-00.

Being also described in accordance with a survey prepared by GLOBAL SURVEYING CONSULTANTS, INC., JOB NO. 11-1007.00, as follows:

TRACT 3:

ALL OF TRACT C, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT C BEING A FOUND 1/2 INCH REBAR ON THE EAST RIGHT OF WAY LINE OF MCKINLEY STREET, THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, ALONG SAID EAST RIGHT OF WAY LINE, 140.0 FEET TO A FOUND 1/2 INCH REBAR ON THE SOUTH RIGHT OF WAY LINE OF "C" STREET; THENCE SOUTH 88 DEGREES 50 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, 196.6 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE SOUTH 00 DEGREES 26 MINUTES 31 SECONDS WEST, ALONG THE WEST LINE OF LOT 5, HENRY MEIROSE ADDITION TO THE CITY OF LITTLE ROCK (PLAT BOOK 1 PAGE 62), 140.0 FEET TO A FOUND 1/2 INCH REBAR WITH CAP ON THE NORTH LINE OF A EAST-WEST ALLEY (20 FOOT WIDTH); THENCE NORTH 88 DEGREES 50 MINUTES 28 SECONDS WEST, ALONG THE NORTH LINE OF SAID EAST-WEST ALLEY, 196.7 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 27,522 SQUARE FEET OR 0.632 ACRES MORE OR LESS, ACCORDING TO SURVEY BY GLOBAL SURVEYING CONSULTANTS INC. JOB NO. 11-1007.00.

PROMISSORY NOTE

\$99,400,000.00

New York, New York
March 24, 2011

FOR VALUE RECEIVED, **PARK PLAZA MALL CMBS, LLC**, a Delaware limited liability company, as maker, having its principal place of business at c/o CBL & Associates Properties, Inc., 2030 Hamilton Place Boulevard, CBL Center Suite 500, Chattanooga, Tennessee 37421 (“**Borrower**”), hereby unconditionally promises to pay to the order of **WELLS FARGO BANK, NATIONAL ASSOCIATION**, having an address at Wells Fargo Center, 1901 Harrison Street, 2nd Floor, MAC A0227-020, Oakland, California 94612 (together with its successors and/or assigns, “**Lender**”), or at such other place as the holder hereof may from time to time designate in writing, the principal sum of NINETY NINE MILLION FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$99,400,000.00), or so much thereof as is advanced, in lawful money of the United States of America, with interest thereon to be computed from the date of this Note at the Interest Rate, and to be paid in accordance with the terms of this Note and that certain Loan Agreement dated the date hereof between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”). All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement.

ARTICLE 1: PAYMENT TERMS

Except as otherwise expressly set forth in the Loan Agreement, Borrower agrees to pay the principal sum of this Note and interest on the unpaid principal sum of this Note from time to time outstanding at the rates and at the times specified in Article 2 of the Loan Agreement and the outstanding balance of the principal sum of this Note and all accrued and unpaid interest thereon shall be due and payable on the Maturity Date.

ARTICLE 2: DEFAULT AND ACCELERATION

The Debt shall without notice become immediately due and payable at the option of Lender if any payment required in this Note is not paid on or prior to the date when due or if not paid on the Maturity Date or on the happening of any other Event of Default.

ARTICLE 3: LOAN DOCUMENTS

This Note is secured by the Security Instrument and the other Loan Documents. All of the terms, covenants and conditions contained in the Loan Agreement, the Security Instrument and the other Loan Documents are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the terms of this Note and the Loan Agreement, the terms and provisions of the Loan Agreement shall govern.

ARTICLE 4: SAVINGS CLAUSE

Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Lender shall never exceed the Maximum Legal Rate, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Borrower.

ARTICLE 5: NO ORAL CHANGE

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

ARTICLE 6: WAIVERS

Borrower and all others who may become liable for the payment of all or any part of the Debt do hereby severally waive presentment and demand for payment, notice of dishonor, notice of intention to accelerate, notice of acceleration, protest and notice of protest and non-payment and all other notices of any kind. No release of any security for the Debt or extension of time for payment of this Note or any installment hereof, and no alteration, amendment or waiver of any provision of this Note, the Loan Agreement or the other Loan Documents made by agreement between Lender or any other Person shall release, modify, amend, waive, extend, change, discharge, terminate or affect the liability of Borrower or any other Person who may become liable for the payment of all or any part of the Debt under this Note, the Loan Agreement or the other Loan Documents. No notice to or demand on Borrower shall be deemed to be a waiver of the obligation of Borrower or of the right of Lender to take further action without further notice or demand as provided for in this Note, the Loan Agreement or the other Loan Documents. If Borrower is a partnership or limited liability company, the agreements herein contained shall remain in force and be applicable, notwithstanding any changes in the individuals comprising the partnership or limited liability company, and the term "Borrower," as used herein, shall include any alternate or successor partnership or limited liability company, but any predecessor partnership or limited liability company and their partners or members shall not thereby be released from any liability. If Borrower is a corporation, the agreements contained herein shall remain in full force and be applicable notwithstanding any changes in the shareholders comprising, or the officers and directors relating to, the corporation, and the term "Borrower," as used herein, shall include any alternative or successor corporation, but any predecessor corporation shall not be relieved of liability hereunder. Nothing in the foregoing sentence shall be construed as a consent to, or a waiver of, any prohibition or restriction on transfers of interests in such partnership, limited liability company or corporation, which may be set forth in the Loan Agreement, the Security Instrument or any other Loan Document.

ARTICLE 7: TRANSFER

Upon the transfer of this Note, Borrower hereby waiving notice of any such transfer, Lender may deliver all the collateral mortgaged, granted, pledged or assigned pursuant to the Loan Documents, or any part thereof, to the transferee who shall thereupon become vested with all the rights herein or under applicable law given to Lender with respect thereto, and Lender shall thereafter forever be relieved and fully discharged from any liability or responsibility in the matter; but Lender shall retain all rights hereby given to it with respect to any liabilities and the collateral not so transferred.

ARTICLE 8: EXCULPATION

The provisions of Article 13 of the Loan Agreement are hereby incorporated by reference into this Note to the same extent and with the same force as if fully set forth herein.

ARTICLE 9: GOVERNING LAW

(A) THIS NOTE WAS NEGOTIATED IN THE STATE OF NEW YORK, AND MADE BY BORROWER AND ACCEPTED BY LENDER IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THIS NOTE WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS NOTE AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS NOTE AND THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS NOTE MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

(C) Borrower does hereby designate and appoint:

CBL & Associates Properties, Inc.
2030 Hamilton Place Boulevard, CBL Center Suite 500
Chattanooga, Tennessee 37421
Attention: General Counsel

as its authorized agent to accept and acknowledge on its behalf service of any and all process which may be served in any suit, action or proceeding in any Federal or State court sitting in the State of New York, and agrees that service of process upon said agent at said address and written notice of said service mailed or delivered to Borrower in the manner set forth in Section 14.1 of the Loan Agreement shall be deemed in every respect effective service of process upon Borrower, in any such suit, action or proceeding. Borrower (i) shall give prompt written notice to Lender of any changed address of its authorized agent hereunder, (ii) may at any time and from time to time designate a substitute authorized agent and (iii) shall promptly designate such a substitute if its authorized agent is dissolved without leaving a successor.

(D) Borrower irrevocably consents to service of process as set forth in Section (C) above and agrees that such service of process shall have the same force and effect as if served personally upon Borrower within the State of New York. Further, Borrower acknowledges and agrees that Borrower shall not contest the validity or legality of service of process upon Borrower in accordance with the foregoing in any legal proceeding.

ARTICLE 10: NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Article 14 of the Loan Agreement.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, Borrower has duly executed this Promissory Note as of the day and year first above written.

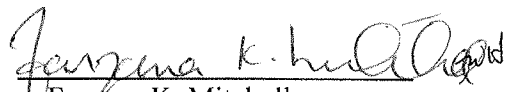
BORROWER:

PARK PLAZA MALL CMBS, LLC, a Delaware limited liability company

By: **CW Joint Venture, LLC**, a Delaware limited liability company, its chief manager

By: **CBL & Associates Limited Partnership**, a Delaware limited partnership, its manager

By: **CBL Holdings I, Inc.**, a Delaware corporation, its general partner

By: 
Name: Farzana K. Mitchell
Title: Executive Vice President – Finance

Pay to the order of Deutsche Bank Trust Company Americas, as Trustee for the registered holders of Wells Fargo Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2011-C3, without recourse, representation or warranty.

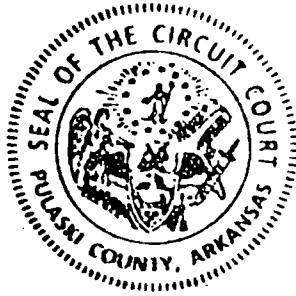
WELLS FARGO BANK, NATIONAL ASSOCIATION

By:



Michael D. Littleton

Title: Assistant Vice President



Loan No. 31-0910344

PARK PLAZA MALL CMBS, LLC, as mortgagor

to

WELLS FARGO BANK, NATIONAL ASSOCIATION, as mortgagee

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT
AND FIXTURE FILING**

Dated: As of March 24, 2011

Location: 6320 West Markham Street, 6000 West Markham Street
and 6301 C Street, Little Rock, Arkansas

County: Pulaski

PREPARED FOR OR BY AND UPON
RECORDATION RETURN TO:

WELLS FARGO BANK, NATIONAL ASSOCIATION
40 West 57th Street, 21st Floor
New York, New York 10019
Attention: Loan Administration

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "**Security Instrument**") is made as of this 24 day of March, 2011, by **PARK PLAZA MALL CMBS, LLC**, a Delaware limited liability company, having its principal place of business at c/o CBL & Associates Properties, Inc., 2030 Hamilton Place Boulevard, CBL Center Suite 500, Chattanooga, Tennessee 37421, as mortgagor (together with its permitted successors and assigns, "**Borrower**") for the benefit of **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, with a mailing address at Wells Fargo Center, 1901 Harrison Street, 2nd Floor, MAC A0227-020, Oakland, California 94612, as mortgagee (together with its successors and assigns, "**Lender**"). All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement (defined below).

RECITALS:

This Security Instrument is given to Lender to secure a certain loan (the "**Loan**") advanced pursuant to a certain loan agreement between Borrower and Lender (as the same may have been or may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Loan Agreement**"), which such Loan is evidenced by, among other things, a certain Promissory Note executed in connection with the Loan Agreement (together with all extensions, renewals, replacements, restatements or other modifications thereof, whether one or more being hereinafter collectively referred to as the "**Note**");

Borrower desires to secure the payment of the outstanding principal amount set forth in, and evidenced by, the Loan Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Lender in respect of the Loan under the Note, the Loan Agreement, this Security Instrument or any of the other Loan Documents (defined below) (collectively, the "**Debt**") and the performance of all of the obligations due under the Note, the Loan Agreement and all other documents, agreements and certificates executed and/or delivered in connection with the Loan (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, collectively, the "**Loan Documents**"); and

This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance of the obligations due thereunder and under the other Loan Documents are secured hereby in accordance with the terms hereof.

Article 1 – GRANTS OF SECURITY

Section 1.1. Property Mortgaged. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer, convey and grant a security interest to Lender and its successors and assigns in and to the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "**Property**");

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (collectively, the "**Land**");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and

all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements, and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements, and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), furniture, software used in or to operate any of the foregoing and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Land and the Improvements (collectively, the "**Personal Property**"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "**Uniform Commercial Code**"), and all proceeds and products of the above;

(f) Leases and Rents. All leases, subleases, subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under any Creditors Rights Laws (collectively, the "**Leases**") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties

(including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Property, including, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property or rendering of services by Borrower or Manager and proceeds, if any, from business interruption or other loss of income insurance whether paid or accruing before or after the filing by or against Borrower of any petition for relief under any Creditors Rights Laws (collectively, the "**Rents**") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(g) Insurance Proceeds. All insurance proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property (collectively, the "**Insurance Proceeds**");

(h) Condemnation Awards. All condemnation awards, including interest thereon, which may heretofore and hereafter be made with respect to the Property by reason of any taking or condemnation, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property (collectively, the "**Awards**");

(i) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(k) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(l) Intangibles. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property, except that such grant shall not include the right to use the tradename "CBL" or any mark which includes the term "CBL";

(m) Accounts. All reserves, escrows and deposit accounts maintained by Borrower with respect to the Property, including without limitation, the Accounts and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(n) Proceeds. All proceeds of any of the foregoing items set forth in subsections (a) through (o) including, without limitation, Insurance Proceeds and Awards, into cash or liquidation claims; and

(o) Other Rights. Any and all other rights of Borrower in and to the items set forth in subsections (a) through (p) above.

Section 1.2. ASSIGNMENT OF RENTS. Borrower hereby absolutely and unconditionally assigns to Lender all of Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Loan Agreement and Section 8.1(h) of this Security Instrument, Lender grants to Borrower a revocable license to (i) collect, receive, use and enjoy the Rents and Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums, and (ii) enforce the terms of the Leases.

Section 1.3. SECURITY AGREEMENT. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Personal Property to the full extent that the Personal Property may be subject to the Uniform Commercial Code.

Section 1.4. FIXTURE FILING. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

Section 1.5. CONDITIONS TO GRANT. TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever; PROVIDED, HOWEVER, these presents are upon the express condition that, if Lender shall be well and truly paid the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, if Borrower shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void.

Article 2 – DEBT AND OBLIGATIONS SECURED

Section 2.1. DEBT. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

Section 2.2. OTHER OBLIGATIONS. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the performance of the following (the “**Other Obligations**”): (a) all other obligations of Borrower contained herein; (b) each obligation of Borrower contained in the Loan Agreement and any other Loan Document; and (c) each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

Section 2.3. DEBT AND OTHER OBLIGATIONS. Borrower’s obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the “**Obligations.**”

Section 2.4. PAYMENT OF DEBT. Borrower will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

Section 2.5. INCORPORATION BY REFERENCE. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Article 3 – PROPERTY COVENANTS

Borrower covenants and agrees that:

Section 3.1. INSURANCE. Borrower shall obtain and maintain, or cause to be obtained and maintained, in full force and effect at all times insurance with respect to Borrower and the Property as required pursuant to the Loan Agreement.

Section 3.2. TAXES AND OTHER CHARGES. Borrower shall pay all real estate and personal property taxes, assessments, water rates or sewer rents (collectively “**Taxes**”), ground rents, maintenance charges, impositions (other than Taxes), and any other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Property (collectively, “**Other Charges**”), now or hereafter levied or assessed or imposed against the Property or any part thereof in accordance with the Loan Agreement.

Section 3.3. LEASES. Borrower shall not (and shall not permit any other applicable Person to) enter in any Leases for all or any portion of the Property unless in accordance with the provisions of the Loan Agreement.

Section 3.4. WARRANTY OF TITLE. Borrower has good, indefeasible, marketable and insurable title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same. Borrower possesses an unencumbered fee simple absolute estate in the Land and the Improvements except for the Permitted Encumbrances, such

other liens as are permitted pursuant to the Loan Documents and the liens created by the Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances and the liens created by the Loan Documents and (b) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other liens as are permitted pursuant to the Loan Documents and the liens created by the Loan Documents. Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all Persons whomsoever.

Section 3.5. PAYMENT FOR LABOR AND MATERIALS.

(a) Subject to Section 3.5(b) below, Borrower will promptly pay (or cause to be paid) when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property (each, a "**Work Charge**") and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances. Borrower represents there are no claims for payment for work, labor or materials affecting the Property which are or may become a lien prior to, or of equal priority with, the liens created by the Loan Documents.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the validity of any Work Charge, the applicability of any Work Charge to Borrower or to the Property or any alleged non-payment of any Work Charge and defer paying the same, provided that (i) no Event of Default has occurred and is continuing; (ii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all Applicable Law; (iii) neither the Property nor any part thereof or interest therein will be in imminent danger of being sold, forfeited, terminated, cancelled or lost; (iv) Borrower shall promptly upon final determination thereof pay (or cause to be paid) any such contested Work Charge determined to be valid, applicable or unpaid; (v) such proceeding shall suspend the collection of such contested Work Charge from the Property or Borrower shall have paid the same (or shall have caused the same to be paid) under protest; and (vi) Borrower shall furnish (or cause to be furnished) such security as may be required in the proceeding, or as may be reasonably requested by Lender, to insure payment of such Work Charge, together with all interest and penalties payable in connection therewith. Lender may apply any such security or part thereof, as necessary to pay for such Work Charge at any time when, in the judgment of Lender, the validity, applicability or non-payment of such Work Charge is finally established or the Property (or any part thereof or interest therein) shall be in present danger of being sold, forfeited, terminated, cancelled or lost.

Article 4 – FURTHER ASSURANCES

Section 4.1. COMPLIANCE WITH LOAN AGREEMENT. Borrower shall comply with all covenants set forth in the Loan Agreement relating to acts or other further assurances to be made on the part of Borrower in order to protect and perfect the lien or security interest hereof upon, and in the interest of Lender in, the Property.

Section 4.2. AUTHORIZATION TO FILE FINANCING STATEMENTS; POWER OF ATTORNEY. Borrower hereby authorizes Lender at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by Applicable Law, as applicable to all or part of the Personal Property and as necessary or required in connection herewith. For purposes of such filings, Borrower agrees to furnish any information requested by Lender promptly upon request by Lender. Borrower also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto or continuation statements, if filed prior to the date of this Security Instrument. Borrower hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Borrower or in Borrower's own name to execute in Borrower's name any such documents and otherwise to carry out the purposes of this Section 4.2, to the extent that Borrower's authorization above is not sufficient and Borrower fails or refuses to promptly execute such documents. To the extent permitted by Applicable Law, Borrower hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

Article 5 – DUE ON SALE/ENCUMBRANCE

Section 5.1. NO SALE/ENCUMBRANCE. Except in accordance with the express terms and conditions contained in the Loan Agreement, Borrower shall not cause or permit a sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or grant of any options with respect to, or any other transfer or disposition (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest in the Property or any part thereof, Borrower, any constituent owner or other holder of a direct or indirect equity interest in Borrower, any indemnitor or other guarantor of the Loan, any constituent owner or other holder of a direct or indirect equity interest in such indemnitor or guarantor, any manager or operating lessee of the Property that is affiliated with Borrower or any constituent owner or other holder of a direct or indirect equity interest in such manager or such operating lessee.

Article 6 – PREPAYMENT; RELEASE OF PROPERTY

Section 6.1. PREPAYMENT. The Debt may not be prepaid in whole or in part except in strict accordance with the express terms and conditions of the Note and the Loan Agreement.

Section 6.2. RELEASE OF PROPERTY. Borrower shall not be entitled to a release of any portion of the Property from the lien of this Security Instrument except in accordance with terms and conditions of the Loan Agreement.

Article 7 – DEFAULT

Section 7.1. EVENT OF DEFAULT. The term “Event of Default” as used in this Security Instrument shall have the meaning assigned to such term in the Loan Agreement.

Article 8 – RIGHTS AND REMEDIES UPON DEFAULT

Section 8.1. REMEDIES. Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any Applicable Law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by Applicable Law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by Applicable Law;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;
- (f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;
- (g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice to Borrower, which notice Borrower expressly waives, and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any guarantor or indemnitor under the Loan or any other Person liable for the payment of the Debt and whose appointment Borrower expressly consents to take possession of and to operate the Property and to collect the Rents and to otherwise protect and preserve the Property;

(h) the license granted to Borrower under Section 1.2 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its sole discretion: (i) Taxes and Other Charges; (ii) insurance premiums; (iii) interest on the unpaid principal balance of the Note; (iv) amortization of the unpaid principal balance of the Note; (v) all other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(j) surrender the insurance policies (other than blanket policies of insurance) maintained pursuant to the Loan Agreement, collect the unearned insurance premiums for such insurance policies and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such insurance premiums;

(k) apply the undisbursed balance of any deposit made by Borrower with Lender in connection with the restoration of the Property after a casualty thereto or condemnation thereof, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion; and/or

(l) pursue such other remedies as Lender may have under Applicable Law.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority. Notwithstanding the provisions of this Section to the contrary, if any Event of Default as described in Section 10.1(f) of the Loan Agreement shall occur, the entire unpaid Debt shall be automatically due and payable, without any further notice, demand or other action by Lender.

Section 8.2. APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 8.3. RIGHT TO CURE DEFAULTS. Upon the occurrence and during the continuance of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make any payment or do any act required of Borrower hereunder in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by Applicable Law), with interest as provided in this Section 8.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at any default rate specified in the Loan Agreement, if any (the "**Default Rate**"), for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

Section 8.4. ACTIONS AND PROCEEDINGS. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 8.5. RECOVERY OF SUMS REQUIRED TO BE PAID. Upon the occurrence of and during the continuance of any Event of Default, Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

Section 8.6. OTHER RIGHTS, ETC. The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of

(i) the failure of Lender to comply with any request of Borrower or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents, except as otherwise provided in such agreement or stipulation.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in the value of the Property, for failure to maintain the insurance policies required to be maintained pursuant to the Loan Agreement, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 8.7. RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 8.8. RIGHT OF ENTRY. Upon reasonable written notice to Borrower, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

Section 8.9. BANKRUPTCY. Upon the occurrence and during the continuance of an Event of Default, Lender shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code (defined below).

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code and Borrower, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Lender not less than ten (10) days' prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Lease. Lender shall have the right, but not the obligation, to serve upon Borrower within such ten-day period a notice stating that (i) Lender demands that Borrower assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code and (ii) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Lender of the covenant provided for in clause (ii) of the preceding sentence.

Section 8.10. SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of the Other Obligations.

Article 9 – ENVIRONMENTAL HAZARDS

Section 9.1. ENVIRONMENTAL COVENANTS. Borrower has provided representations, warranties and covenants regarding environmental matters set forth in the Environmental Indemnity and Borrower shall comply with the aforesaid covenants regarding environmental matters.

Article 10 – WAIVERS

Section 10.1. MARSHALLING AND OTHER MATTERS. Borrower hereby waives, to the extent permitted by Applicable Law, the benefit of all Applicable Law now or hereafter in force regarding appraisal, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all Persons to the extent permitted by Applicable Law.

Section 10.2. WAIVER OF NOTICE. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument or the Loan Agreement specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Borrower is not permitted by Applicable Law to waive its right to receive notice, and Borrower hereby expressly waives the right to

receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 10.3. INTENTIONALLY OMITTED.

Section 10.4. SOLE DISCRETION OF LENDER. Whenever pursuant to this Security Instrument, Lender exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Lender, the decision of Lender to approve or disapprove or to decide whether arrangements or terms are satisfactory or not satisfactory shall (except as is otherwise specifically herein provided) be in the sole (but reasonable) discretion of Lender and shall be final and conclusive.

Section 10.5. WAIVER OF TRIAL BY JURY. **BORROWER AND LENDER EACH HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF LENDER AND BORROWER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER AND LENDER.**

Section 10.6. WAIVER OF FORECLOSURE DEFENSE. Borrower hereby waives any defense Borrower might assert or have by reason of Lender's failure to make any tenant or lessee of the Property a party defendant in any foreclosure proceeding or action instituted by Lender.

Article 11 – INTENTIONALLY OMITTED

Article 12 – NOTICES

Section 12.1. NOTICES. All notices or other written communications hereunder shall be delivered in accordance with the applicable terms and conditions of the Loan Agreement.

Article 13 – APPLICABLE LAW

Section 13.1. GOVERNING LAW. (A) **THIS SECURITY INSTRUMENT WAS NEGOTIATED IN THE STATE OF NEW YORK AND MADE BY BORROWER AND ACCEPTED BY LENDER IN THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS SECURITY INSTRUMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE**

LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIEN AND SECURITY INTEREST CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS SECURITY INSTRUMENT AND THE NOTE, AND THIS SECURITY INSTRUMENT AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(B) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS SECURITY INSTRUMENT MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

(C) Borrower does hereby designate and appoint

**CBL & Associates Properties, Inc.
2030 Hamilton Place Boulevard, CBL Center Suite 500
Chattanooga, Tennessee 37421
Attention: General Counsel**

as its authorized agent to accept and acknowledge on its behalf service of any and all process which may be served in any suit, action or proceeding in any Federal or State court sitting in the State of New York, and agrees that service of process upon said agent at said address and written notice of said service mailed or delivered to Borrower in the manner set forth in Section 14.1 of the Loan Agreement shall be deemed in every respect effective service of process upon Borrower, in any such suit, action or proceeding. Borrower (i) shall give prompt written notice to Lender of any changed address of its authorized agent hereunder, (ii) may at any time and from time to time designate a substitute authorized agent and (iii) shall promptly designate such a substitute if its authorized agent is dissolved without leaving a successor.

(D) Borrower irrevocably consents to service of process as set forth in Section (C) above and agrees that such service of process shall have the same force and effect as if served personally upon Borrower within the State of New York. Further, Borrower acknowledges and agrees that Borrower shall not contest the validity or legality of service of process upon Borrower in accordance with the foregoing in any legal proceeding.

Section 13.2. PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any Applicable Law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any Applicable Law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

Article 14 – DEFINITIONS

Section 14.1. GENERAL DEFINITIONS. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any of Lender's successors and assigns," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

Article 15 – MISCELLANEOUS PROVISIONS

Section 15.1. NO ORAL CHANGE. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 15.2. SUCCESSORS AND ASSIGNS. This Security Instrument shall be binding upon and inure to the benefit of Borrower, Lender and their respective successors and assigns forever.

Section 15.3. INAPPLICABLE PROVISIONS. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in

any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

Section 15.4. HEADINGS, ETC. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 15.5. NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 15.6. ENTIRE AGREEMENT. This Security Instrument and the other Loan Documents contain the entire agreement of the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior agreements among or between such parties, whether oral or written, are superseded by the terms of this Security Instrument and the other Loan Documents.

Section 15.7. LIMITATION ON LENDER'S RESPONSIBILITY. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession."

Article 16 – STATE-SPECIFIC PROVISIONS

Section 16.1. PRINCIPLES OF CONSTRUCTION. In the event of any inconsistencies between the terms and conditions of this Article 16 and the terms and conditions of this Security Instrument, the terms and conditions of this Article 16 shall control and be binding.

Section 16.2. The following language is hereby added after the words "as may be required or permitted by Applicable Law" in Section 8.1 (d) entitled "Remedies":

If there shall be a default in any of the terms or conditions of this Security Instrument or the other Loan Documents, including, without limitation, the Note secured hereby, all sums owing to Lender under this Security Instrument or under the Note shall immediately become due and payable at Lender's option. Lender shall have the right, at its option, to foreclose this Security Instrument through judicial foreclosure proceedings filed in the circuit court of the county in which the Property is located, or through non-judicial statutory foreclosure proceedings as set forth in Ark. Code Ann. §18-50-101, et seq. In the event of a judicial foreclosure of this Security Instrument, the court shall direct a sale of the Property at public sale, to the highest bidder, at the Pulaski County, Arkansas, Courthouse, public notice of the time, the terms and place of sale having first been given in accordance with Ark. Code Ann. § 18-49-104, at which sale Lender, its successors or assigns, may bid and purchase as any third party might do. In the event of a foreclosure of this Security Instrument, the proceeds of the sale of the Property shall be applied, after the payment of the costs and expenses of the foreclosure proceeding first,

to the payment of all sums advanced and expended under the authority of this Security Instrument for taxes, special assessments, fire and other hazard insurance premiums and abstract of title expense, with interest thereon; second, to the payment of the Note secured hereby or any note taken in the extension or renewal thereon; third, to the payment of any other indebtedness secured hereby in connection with the other Loan Documents; fourth, the remainder, if any, after payment of all aforementioned indebtedness in full, with interest, to Borrower, its successors and assigns; and any deed made by Lender in pursuance of the power herein granted and all recitals therein contained shall be prima facie evidence of the facts therein set forth.

Section 16.3. The first sentence of Section 10.1 entitled "Marshalling and Other Matters" is hereby deleted in its entirety and the following is substituted therefore:

Borrower hereby waives, as provided for under the laws of the State of Arkansas, including Ark. Code Ann. §18-49-106, or to the extent permitted by any other Applicable Law, the benefit of all appraisalment, homestead, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein.

Section 16.4. The words ", pursuant to Ark. Code Ann. § 18-49-101 *et seq.*, as amended, or Ark. Code Ann. § 18-50-101 *et seq.*, as amended," shall be added after the word "proceedings" in Section 8.1(b) of this Security Instrument.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, this Security Instrument has been executed by the undersigned as of the day and year first above written.

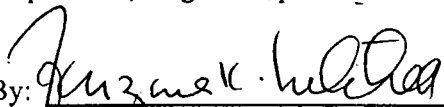
BORROWER:

PARK PLAZA MALL CMBS, LLC, a Delaware limited liability company

By: **CW Joint Venture, LLC**, a Delaware limited liability company, its chief manager

By: **CBL & Associates Limited Partnership**, a Delaware limited partnership, its manager

By: **CBL Holdings I, Inc.**, a Delaware corporation, its general partner

By: 

Name: Farzana K. Mitchell

Title: Executive Vice President – Finance

FKM

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

ACKNOWLEDGEMENT

STATE OF Tennessee)
)ss:
COUNTY OF Hamilton)

On this 14th day of March, 2011, before me, the undersigned officer, personally appeared Farzana K. Mitchell, who acknowledged himself/herself to be the Executive Vice President – Finance of CBL Holdings I, Inc., a Delaware corporation, the general partner of CBL & Associates Limited Partnership, a Delaware limited partnership, the manager of CW Joint Venture, LLC, a Delaware limited liability company, the chief manager of Park Plaza Mall CMBS, LLC, a Delaware limited liability company, and that he/she, as such Executive Vice President – Finance, being authorized so to do, executed the foregoing instrument for the purposes therein mentioned, by signing the name of CBL Holdings I, Inc., a Delaware corporation, the general partner of CBL & Associates Limited Partnership, a Delaware limited partnership, the manager of CW Joint Venture, LLC, a Delaware limited liability company, the chief manager of Park Plaza Mall CMBS, LLC, a Delaware limited liability company by himself/herself as Executive Vice President – Finance.

In witness whereof, I have hereunto set my hand and official seal this 14th day of March, 2011.

Sue N. Roman
Notary Public

My Commission Expires November 5, 2013

My Commission Expires: _____

(SEAL)

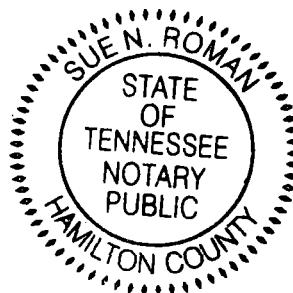




EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Little Rock, County of Pulaski, State of Arkansas, described as follows:

Tract 1:

Tract A, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas, Less and Except Part of Tract A, Park Plaza Addition in the City of Little Rock, Pulaski County, Arkansas, as recorded as Plat No. C-519 being more particularly described as follows:

Beginning at the Southwest corner of the said Tract A, Park Plaza Addition; thence North 00 degrees 29 minutes 00 seconds East along the existing East right of way line of McKinley Street 210.6 feet; thence South 88 degrees 40 minutes 09 seconds East along the North line of said Tract A, 18.14 feet; thence along the proposed East right of way line of McKinley Street the following three courses and distances: 1) South 05 degrees 10 minutes 05 seconds East 67.00 feet 2) South 00 degrees 10 minutes 54 seconds West 124.18 feet; and 3) South 44 degrees 29 minutes 51 seconds East 28.43 feet to the North right-of-way line of West Markham Street; thence along said North right-of way line North 88 degrees 43 minutes 26 seconds West 45.49 feet to the point of beginning.

Tract 2:

Part of Tract D, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas, being more particularly described as follows:

A part of the Northeast Quarter of the Northeast Quarter, Section 1, Township 1 North, Range 13 West, Pulaski County, Arkansas, more particularly described as follows: From the Southeast corner of the said Northeast Quarter of the Northeast Quarter, run thence North 88 degrees 38 minutes 23 seconds West and along the South line of the said Northeast Quarter of the Northeast Quarter and the centerline of West Markham Street (of 60.0 foot width) for 651.67 feet; thence North 01 degrees 21 minutes 37 seconds East for 30.0 feet to the North right of way line of West Markham Street; thence North 88 degrees 38 minutes 23 seconds West and along the North right of way line of West Markham Street for 264.08 feet to the Point of Beginning; thence North 01 degrees 21 minutes 37 seconds East for 42.00 feet; thence North 88 degrees 38 minutes 23 seconds West for 250.64 feet; thence South 00 degrees 29 minutes West for 42.00 feet to the North right of way line of West Markham Street; thence South 88 degrees 38 minutes 23 seconds East and along the North right of way line of West Markham Street and parallel with the South line of the Northeast Quarter of the Northeast Quarter for 250.00 feet, more or less, to the Point of Beginning.

Tracts 1 and 2 above known as Tax Parcel Number 44L-001-03-001-00.

Tract 3:

Tract C, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Known as Tax Parcel Number 44L-001-03-003-00.

Tract 4:

Tract E, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Known as Tax Parcel Number 44L-001-03-005-00.

Being also described in accordance with a survey prepared by GLOBAL SURVEYING CONSULTANTS, INC., JOB NO. 11-1007.00, as follows:

TRACT 1:

BEING A PART OF TRACT A, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE (CPS) BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE, 264.08 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST, 42.00 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 250.40 FEET TO A FOUND CPS BEING THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, 168.50 FEET TO A FOUND 1/2 INCH REBAR; THENCE NORTH 88 DEGREES 37 MINUTES 06 SECONDS WEST, 130.55 FEET TO THE EAST RIGHT OF WAY LINE OF MCKINLEY STREET; THENCE ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING COURSES: SOUTH 05 DEGREES 16 MINUTES 56 SECONDS EAST, 67.64 FEET TO A FOUND NAIL; SOUTH 00 DEGREES 00 MINUTES 02 SECONDS EAST, 124.13 FEET TO A FOUND PAINT SPOT; SOUTH 44 DEGREES 48 MINUTES 19 SECONDS EAST, 28.41 FEET TO A FOUND PAINT SPOT ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET (60' RIGHT OF WAY); THENCE SOUTH 88 DEGREES 52 MINUTES 53 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 102.51 FEET TO A FOUND 1/2" REBAR WITH CAP; THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, 42.00 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 31,698 SQUARE FEET OR 0.728 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS, JOB NO. 11-1007.00.

TRACT 2:

BEING A PART OF TRACT D, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE, 264.08 FEET TO A FOUND 1/2 INCH REBAR WITH CAP BEING THE POINT OF BEGINNING; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST, 42.00 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 250.40 FEET TO A FOUND CPS; THENCE SOUTH 00 DEGREES 29 MINUTES 00 SECONDS WEST, 42.00 FEET TO A FOUND 1/2 INCH REBAR WITH CAP ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 249.76 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 10,503 SQUARE FEET OR 0.241 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS JOB NO. 11-1007.00.

TRACT 3:

ALL OF TRACT C, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT C BEING A FOUND 1/2 INCH REBAR ON THE EAST RIGHT OF WAY LINE OF MCKINLEY STREET, THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, ALONG SAID EAST RIGHT OF WAY LINE, 140.0 FEET TO A FOUND 1/2 INCH REBAR ON THE SOUTH RIGHT OF WAY LINE OF "C" STREET; THENCE SOUTH 88 DEGREES 50 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, 196.6 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE SOUTH 00 DEGREES 26 MINUTES 31 SECONDS WEST, ALONG THE WEST LINE OF LOT 5, HENRY MEIROSE ADDITION TO THE CITY OF LITTLE ROCK (PLAT BOOK 1 PAGE 62), 140.0 FEET TO A FOUND 1/2 INCH REBAR WITH CAP ON THE NORTH LINE OF A EAST-WEST ALLEY (20 FOOT WIDTH); THENCE NORTH 88 DEGREES 50 MINUTES 28 SECONDS WEST, ALONG THE NORTH LINE OF SAID EAST-WEST ALLEY, 196.7 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 27,522 SQUARE FEET OR 0.632 ACRES MORE OR LESS, ACCORDING TO SURVEY BY GLOBAL SURVEYING CONSULTANTS INC. JOB NO. 11-1007.00.

TRACT 4:

BEING ALL OF TRACT E, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE (CPS) BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET BEING THE POINT OF BEGINNING; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 194.70 FEET TO A FOUND SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, FOR 160.25 FEET TO A FOUND CPS WHICH IS IN LINE WITH THE EAST WALL OF A TWO STORY BRICK BUILDING OCCUPIED BY DILLARD DEPARTMENT STORES, INC.; THENCE NORTH 01 DEGREE 24 MINUTES 36 SECONDS EAST, ALONG SAID EAST WALL AND EAST WALL PROJECTED NORTH, FOR 573.88 FEET TO A FOUND CPS ON THE SOUTH LINE OF AN ALLEY (20' IN WIDTH); THENCE SOUTH 88 DEGREES 50 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH LINE, 130.04 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE NORTH 00 DEGREES 24 MINUTES 21 SECONDS EAST, 46.2 FEET TO A FOUND CPS, THENCE SOUTH 89 DEGREES 01 MINUTES 54 SECONDS EAST, 622.33 FEET TO A FOUND PK NAIL ON THE WEST RIGHT OF WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 00 DEGREES 01 MINUTE 49 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 54.98 FEET TO A FOUND CPS; THENCE NORTH 89 DEGREES 03 MINUTES 32 SECONDS WEST, 200.0 FEET TO A SCRIBED "X" IN CONCRETE; THENCE SOUTH 01 DEGREES 21 MINUTES 37 SECONDS WEST, 200.0 FEET TO A SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 59.44 FEET TO A SCRIBED "X" IN CONCRETE; THENCE SOUTH 01 DEGREES 26 MINUTES 04 SECONDS WEST, 368.45 FEET TO A SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 69.98 FEET TO A FOUND SCRIBED "X"; THENCE SOUTH 01 DEGREES 21 MINUTES 37 SECONDS WEST, 150.0 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, 143.67 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 01 DEGREES 21 MINUTES 37 SECONDS EAST, 128.83 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, 199.95 FEET TO A FOUND SCRIBED "X" ON THE WEST RIGHT OF WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 00 DEGREES 02 MINUTES 47 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 122.88 FEET TO A FOUND SCRIBED "X"; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.36 FEET, AN ARC LENGTH OF 46.66 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 45 DEGREES 37 MINUTES 42 SECONDS WEST, 41.91 FEET TO A FOUND 1/2 INCH REBAR; THENCE NORTH 88 DEGREES 31 MINUTES 36 SECONDS WEST, 159.92 FEET TO A FOUND 1/2 INCH REBAR; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 101.00 FEET, AN ARC LENGTH OF 65.98 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 72 DEGREES 27 MINUTES 50 SECONDS WEST, 64.66 FEET TO A FOUND 1/2 INCH REBAR ON THE NORTH RIGHT OF WAY LINE OF MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 359.30 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 414,485 SQUARE

FEET OR 9.515 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS, INC., JOB NO. 11-1007.00.

Tract 5: (Easement)

Together with rights of ingress and egress as set forth in that certain Construction, Operation and Reciprocal Easement Agreement by and among Construction Developers, Incorporated, an Arkansas Corporation, Dillard Department Stores, Inc., a Delaware Corporation and Herring-Marathon Master Partnership B, a Texas General Partnership, filed for record December 31, 1986 and recorded as Instrument No. 86-82744; First Amendment thereto filed for record July 27, 1988 and recorded as Instrument No. 88-39542; Assignment and Assumption thereof filed for record February 15, 1996 and recorded as Instrument No. 96-13164; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 96-68743; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 2000027336; further Assignment of Reciprocal Easement Agreement by Park Plaza Mall, LLC, a Delaware limited liability company to CBL/Park Plaza Mall, LLC, a Delaware limited liability company, filed for record June 23, 2004 and recorded as Instrument No. 2004050062 over and across the following described lands:

A part of the Northeast Quarter of the Northeast Quarter, Section 1, Township 1 North, Range 13 West, which includes a portion of "B" Street closed by City of Little Rock, Ordinance No. 11,439 and Lots 7 through 13 and Lots 14 through 26, inclusive, Henry Meirose Addition to the City of Little Rock, all being in Pulaski County, Arkansas, more particularly described as follows: From the Southeast corner of the said Northeast Quarter of the Northeast Quarter; run thence North 88 degrees 38 minutes 23 seconds West and along the South line of the said Northeast Quarter of the Northeast Quarter and the centerline of West Markham Street (of 60 foot width) for 651.67 feet; thence North 01 degrees 21 minutes 37 seconds East for 30.0 feet to the North right of way line of West Markham Street and the Point of Beginning; thence North 88 degrees 38 minutes 23 seconds West and along the North right of way line of West Markham Street for 264.08 feet; thence North 01 degrees 21 minutes 37 seconds East for 42.0 feet; thence North 88 degrees 38 minutes 23 seconds West for 250.64 feet; thence North 00 degrees 29 minutes East for 168.54 feet; thence North 88 degrees 37 minutes 06 seconds West for 150.11 feet to the East right of way line of McKinley Street (of 30.0 foot width) and a point 15.0 feet East of the West line of the Northeast Quarter of the Northeast Quarter; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 556.51 feet to the Northwest corner of Lot 26, Henry Meirose Addition to the City of Little Rock (as recorded in Plat Book 1, Page 62) and the Southwest corner of an alley (of 20 foot width) running in an East-West direction; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 20.0 feet to the Southwest corner of Lot 1, Henry Meirose Addition and the Northwest corner of the East-West alley; thence South 88 degrees 50 minutes 28 seconds East and along the South line of Lots 1, 2, 3, 4, 5, and 6, Henry Meirose Addition to the City of Little Rock and the North line of the East-West alley for 294.00 feet to the common South corner of Lots 6 and 7, Henry Meirose Addition to the City of Little Rock; thence North 00 degrees 29 minutes East and along the common line of said Lots 6 and 7 for 140.00 feet to the common North corner of said Lots 6 and 7 and a point on the South right of way line of "C" Street (varying width right of way); thence South 88 degrees 50 minutes 28 seconds East and along the North line of Lots 7, 8, 9, 10, 11, 12 and 13, Henry Meirose Addition to the City of Little Rock and the South right of way line of "C" Street for 336.50 feet to the Northeast corner of said Lot 13 and the West right of way line of Arthur Street; thence South 00 degrees 29 minutes West and along the West right of way line of Arthur Street 140.00 feet to the Southeast corner of Lot 13, Henry Meirose Addition to the City of Little Rock, and a point on the East-West alley previously mentioned; thence North 88 degrees 50 minutes 28 seconds West and along the South line of Lots 13, 12 and 11, Henry Meirose Addition to the City of Little Rock and along the North line of said East-West alley for 114.11 feet to a point which is in line with the East wall of a two story brick building occupied by Dillard Department Stores, Inc.; thence South 01 degrees 24 minutes 36 seconds West and along the East wall and East wall line projected both North and South for 594.02 feet to a point; thence South 88 degrees 38 minutes 23 seconds East for 160.36 feet to a point; thence South 01 degrees 21 minutes 37 seconds West for 194.81 feet to the Point of Beginning; less and except the East-West alley (of 20 foot width) running through Henry Meirose Addition to the City of Little Rock, more particularly described as follows: Beginning at the Northwest corner of Lot 26, Henry Meirose Addition to the City of Little Rock (as recorded in Plat Book 1, Page 62) and the Southwest corner of an alley (of 20 foot width) running in an East-West

direction; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 20.0 feet to the Northwest corner of the alley and the Southwest corner of Lot 1, Henry Meirose Addition; thence South 88 degrees 50 minutes 28 seconds East and along the North line of said East-West alley and the South line of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, Henry Meirose Addition to the City of Little Rock, 516.39 feet; thence South 01 degrees 24 minutes 36 seconds West for 20.00 feet to a point on the North line of Lot 16, Henry Meirose Addition to the City of Little Rock and a point on the South line of said East-West alley; thence North 88 degrees 50 minutes 28 seconds West and along the North line of Lots 16 through 28, inclusive, Henry Meirose Addition to the City of Little Rock and the South line of said East-West alley for 516.07 feet to the Point of Beginning, Less and Except Part of Tract D, Park Plaza Addition in the City of Little Rock, Pulaski County, Arkansas, as recorded in Plat Book C at Page 519, being more particularly described as follows:

Beginning at the Northwest corner of the Tract A, Park Plaza Addition; thence North 00 degrees 29 minutes 00 seconds East along the existing East right-of-way line of McKinley Street 183.00 feet; thence South 05 degrees 10 minutes 05 seconds East along the proposed East right-of-way line of McKinley Street 184.17 feet; thence North 88 degrees 40 minutes 09 seconds West 18.14 feet to the point of beginning.

Tract 6 (Easement):

Together with rights of ingress and egress as set forth in that certain Construction, Operation and Reciprocal Easement Agreement by and among Construction Developers, Incorporated, an Arkansas Corporation, Dillard Department Stores, Inc., a Delaware Corporation and Herring-Marathon Master Partnership B, a Texas General Partnership, filed for record December 31, 1986 and recorded as Instrument No. 86-82744; First Amendment thereto filed for record July 27, 1988 and recorded as Instrument No. 88-39542; Assignment and Assumption thereof filed for record February 15, 1996 and recorded as Instrument No. 96-13164; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 96-68743; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 2000027336; further Assignment of Reciprocal Easement Agreement by Park Plaza Mall, LLC, a Delaware limited liability company to CBL/Park Plaza Mall, LLC, a Delaware limited liability company, filed for record June 23, 2004 and recorded as Instrument No. 2004050062, over and across the following described lands: Tract F, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

CT Lien Solutions

Representation of filing

This filing is Completed

File Number : 20111099806

File Date : 24-MAR-2011

A. NAME & PHONE OF CONTACT AT FILER [optional] Phone: Fax:	
B. SEND ACKNOWLEDGMENT TO: (Name and Address) Wells Fargo Bank, N.A. 40 West 57th Street, 21st Floor New York NY, 10019	
27703133 DEDE	
20413 -	
File with: Secretary of State, DE	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME PARK PLAZA MALL CMBS, LLC						
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
1c. MAILING ADDRESS c/o CBL & Associates Properties, Inc., 2030 Hamilton Place Boulevard, CBL Center Suite 500			CITY Chattanooga	STATE TN	POSTAL CODE 37421	COUNTRY USA
1d. <u>SEE INSTRUCTIONS</u>	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION LLC	1f. JURISDICTION OF ORGANIZATION DE	1g. ORGANIZATIONAL ID #, if any 4924840		<input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME						
OR	2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
2c. MAILING ADDRESS			CITY	STATE	POSTAL CODE	COUNTRY
2d. <u>SEE INSTRUCTIONS</u>	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any		<input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME WELLS FARGO BANK, NATIONAL ASSOCIATION						
OR	3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX	
3c. MAILING ADDRESS Wells Fargo Center, 1901 Harrison Street, 2nd Floor, MAC A0227-020			CITY Oakland	STATE CA	POSTAL CODE 94612	COUNTRY USA

4. This FINANCING STATEMENT covers the following collateral:

CBL - Park Plaza/Loan No. 31-0910344

All those types or items of property described on Rider A, Schedule A and Exhibit A attached hereto and by this reference made a part hereof.

EXHIBIT D

5. ALTERNATIVE DESIGNATION [if applicable]:		<input type="checkbox"/> LESSEE/LESSOR	<input type="checkbox"/> CONSIGNEE/CONSIGNOR	<input type="checkbox"/> BAILEE/BAILOR	<input type="checkbox"/> SELLER/BUYER	<input type="checkbox"/> AG. LIEN	<input type="checkbox"/> NON-UCC FILING
6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]		7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional]		<input type="checkbox"/> All Debtors		<input type="checkbox"/> Debtor 1	<input type="checkbox"/> Debtor 2
8. OPTIONAL FILER REFERENCE DATA							
27703133		310910344		07770			

**RIDER A TO UCC-1 FINANCING STATEMENT
COLLATERAL DESCRIPTION**

DEBTOR: PARK PLAZA MALL CMBS, LLC

SECURED PARTY: WELLS FARGO BANK, NATIONAL ASSOCIATION

The collateral covered by this financing statement is all of the Debtor's right, title and interest in, to and under the following described property and the proceeds thereof, whether now owned or existing, hereafter acquired or arising, or in which the Debtor now or hereafter has any rights (the "**Property**");

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (collectively, the "**Land**");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Debtor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of the Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements, and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Debtor of, in and to the Land and the Improvements, and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), furniture, software used in or to operate any of the foregoing and other property of every kind and nature whatsoever owned by Debtor, or in which Debtor has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Debtor, or in which Debtor has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present

or future operation and occupancy of the Land and the Improvements (collectively, the “**Personal Property**”), and the right, title and interest of Debtor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located, and all proceeds and products of the above;

(f) Leases and Rents. All leases, subleases, subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Debtor of any petition for relief under any Creditors Rights Laws (collectively, the “**Leases**”) and all right, title and interest of Debtor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Debtor or its agents or employees from any and all sources arising from or attributable to the Property, including, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property or rendering of services by Debtor or Manager and proceeds, if any, from business interruption or other loss of income insurance whether paid or accruing before or after the filing by or against Debtor of any petition for relief under any Creditors Rights Laws (collectively, the “**Rents**”) and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(g) Insurance Proceeds. All insurance proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property (collectively, the “**Insurance Proceeds**”);

(h) Condemnation Awards. All condemnation awards, including interest thereon, which may heretofore and hereafter be made with respect to the Property by reason of any taking or condemnation, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property (collectively, the “**Awards**”);

(i) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(j) Rights. The right, in the name and on behalf of Debtor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Secured Party in the Property;

(k) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Debtor therein and thereunder, including, without limitation, the right, upon the happening of any default under the Security Instrument, to receive and collect any sums payable to Debtor thereunder;

(l) Intangibles. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property, except that such grant shall not include the right to use the tradename "CBL" or any mark which includes the term "CBL";

(m) Accounts. All reserves, escrows and deposit accounts maintained by Debtor with respect to the Property, including without limitation, the Accounts and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(n) Proceeds. All proceeds of any of the foregoing items set forth in subsections (a) through (m) including, without limitation, Insurance Proceeds and Awards, into cash or liquidation claims; and

(o) Other Rights. Any and all other rights of Debtor in and to the items set forth in subsections (a) through (n) above.

**SCHEDULE A TO UCC-1 FINANCING STATEMENT
DEFINED TERMS**

For the purposes of this financing statement, the following initially capitalized terms shall have the meanings set forth below:

“Accounts” shall have the meaning set forth in the Cash Management Agreement.

“Assignment of Management Agreement” shall mean that certain Conditional Assignment of Management Agreement dated as of the Closing Date, among Secured Party, Debtor and Manager, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Cash Management Agreement” shall mean that certain Cash Management Agreement, dated as of the Closing Date, among Secured Party, Debtor and Manager.

“Closing Date” shall mean the date of the funding of the Loan.

“Creditors Rights Laws” shall mean any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

“Debt” shall mean the outstanding principal amount set forth in, and evidenced by, the Loan Agreement and the Note together with all interest accrued and unpaid thereon and all other sums due to Secured Party in respect of the Loan under the Note, the Loan Agreement or the other Loan Documents, including, without limitation, the payment of all sums advanced and costs and expenses incurred (including unpaid or unreimbursed servicing and special servicing fees) by Secured Party in connection with the enforcement and/or collection of the Debt or any part thereof.

“Environmental Indemnity” shall mean that certain Environmental Indemnity Agreement, dated as of the Closing Date, executed by Debtor and Guarantor in connection with the Loan for the benefit of Secured Party, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“Guarantor” shall mean CBL & Associates Properties, Inc., a Delaware corporation.

“Guaranty” shall mean that certain Guaranty of Recourse Obligations executed by Guarantor and dated as of the Closing Date.

“Loan” shall mean the loan made by Secured Party to Debtor pursuant to the Loan Agreement.

“Loan Agreement” shall mean that certain Loan Agreement by and between Debtor and Secured Party, dated as of the Closing Date, as the same may hereafter be amended, modified or supplemented from time to time.

“Loan Documents” shall mean, collectively, the Loan Agreement, the Note, the Security Instrument, the Environmental Indemnity, the Assignment of Management Agreement, the Cash Management Agreement, the Guaranty and all other documents executed and/or delivered in connection with the Loan.

“Manager” shall mean CBL & Associates Management, Inc., a Delaware corporation or such other entity selected as the manager of the Property in accordance with the terms of the Loan Agreement or the other Loan Documents.

“Note” shall mean that certain Promissory Note, dated as of the Closing Date, in the principal amount of \$99,400,000.00, made by Debtor in favor of Secured Party, as the same may be amended, restated, replaced, extended, renewed, supplemented, severed, split, or otherwise modified from time to time.

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

“Security Instrument” shall mean that certain first priority Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of the Closing Date, executed and delivered by Debtor to Secured Party, as security for the Loan and encumbering the Property (or any portion thereof), as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

**EXHIBIT A TO UCC-1 FINANCING STATEMENT
LEGAL DESCRIPTION**

Real property in the City of Little Rock, County of Pulaski, State of Arkansas, described as follows:

Tract 1:

Tract A, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas, Less and Except Part of Tract A, Park Plaza Addition in the City of Little Rock, Pulaski County, Arkansas, as recorded as Plat No. C-519 being more particularly described as follows:

Beginning at the Southwest corner of the said Tract A, Park Plaza Addition; thence North 00 degrees 29 minutes 00 seconds East along the existing East right of way line of McKinley Street 210.6 feet; thence South 88 degrees 40 minutes 09 seconds East along the North line of said Tract A, 18.14 feet; thence along the proposed East right of way line of McKinley Street the following three courses and distances: 1) South 05 degrees 10 minutes 05 seconds East 67.00 feet 2) South 00 degrees 10 minutes 54 seconds West 124.18 feet; and 3) South 44 degrees 29 minutes 51 seconds East 28.43 feet to the North right-of-way line of West Markham Street; thence along said North right-of way line North 88 degrees 43 minutes 26 seconds West 45.49 feet to the point of beginning.

Tract 2:

Part of Tract D, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas, being more particularly described as follows:

A part of the Northeast Quarter of the Northeast Quarter, Section 1, Township 1 North, Range 13 West, Pulaski County, Arkansas, more particularly described as follows: From the Southeast corner of the said Northeast Quarter of the Northeast Quarter, run thence North 88 degrees 38 minutes 23 seconds West and along the South line of the said Northeast Quarter of the Northeast Quarter and the centerline of West Markham Street (of 60.0 foot width) for 651.67 feet; thence North 01 degrees 21 minutes 37 seconds East for 30.0 feet to the North right of way line of West Markham Street; thence North 88 degrees 38 minutes 23 seconds West and along the North right of way line of West Markham Street for 264.08 feet to the Point of Beginning; thence North 01 degrees 21 minutes 37 seconds East for 42.00 feet; thence North 88 degrees 38 minutes 23 seconds West for 250.64 feet; thence South 00 degrees 29 minutes West for 42.00 feet to the North right of way line of West Markham Street; thence South 88 degrees 38 minutes 23 seconds East and along the North right of way line of West Markham Street and parallel with the South line of the Northeast Quarter of the Northeast Quarter for 250.00 feet, more or less, to the Point of Beginning.

Tracts 1 and 2 above known as Tax Parcel Number 44L-001-03-001-00.

Tract 3:

Tract C, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Known as Tax Parcel Number 44L-001-03-003-00.

Tract 4:

Tract E, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Known as Tax Parcel Number 44L-001-03-005-00.

Being also described in accordance with a survey prepared by GLOBAL SURVEYING CONSULTANTS, INC., JOB NO. 11-1007.00, as follows:

TRACT 1:

BEING A PART OF TRACT A, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE (CPS) BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE, 264.08 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST, 42.00 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 250.40 FEET TO A FOUND CPS BEING THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, 168.50 FEET TO A FOUND 1/2 INCH REBAR; THENCE NORTH 88 DEGREES 37 MINUTES 06 SECONDS WEST, 130.55 FEET TO THE EAST RIGHT OF WAY LINE OF MCKINLEY STREET; THENCE ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING COURSES: SOUTH 05 DEGREES 16 MINUTES 56 SECONDS EAST, 67.64 FEET TO A FOUND NAIL; SOUTH 00 DEGREES 00 MINUTES 02 SECONDS EAST, 124.13 FEET TO A FOUND PAINT SPOT; SOUTH 44 DEGREES 48 MINUTES 19 SECONDS EAST, 28.41 FEET TO A FOUND PAINT SPOT ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET (60' RIGHT OF WAY); THENCE SOUTH 88 DEGREES 52 MINUTES 53 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 102.51 FEET TO A FOUND 1/2" REBAR WITH CAP; THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, 42.00 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 31,698 SQUARE FEET OR 0.728 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS, JOB NO. 11-1007.00.

TRACT 2:

BEING A PART OF TRACT D, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE, 264.08 FEET TO A FOUND 1/2 INCH REBAR WITH CAP BEING THE POINT OF BEGINNING; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST, 42.00 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 250.40 FEET TO A FOUND CPS; THENCE SOUTH 00 DEGREES 29 MINUTES 00 SECONDS WEST, 42.00 FEET TO A FOUND 1/2 INCH REBAR WITH CAP ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 249.76 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 10,503 SQUARE FEET OR 0.241 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS JOB NO. 11-1007.00.

TRACT 3:

ALL OF TRACT C, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT C BEING A FOUND 1/2 INCH REBAR ON THE EAST RIGHT OF WAY LINE OF MCKINLEY STREET, THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, ALONG SAID EAST RIGHT OF WAY LINE, 140.0 FEET TO A FOUND 1/2 INCH REBAR ON THE SOUTH RIGHT OF WAY LINE OF "C" STREET; THENCE SOUTH 88 DEGREES 50 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, 196.6 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE SOUTH 00 DEGREES 26 MINUTES 31 SECONDS WEST, ALONG THE WEST LINE OF LOT 5, HENRY MEIROSE ADDITION TO THE CITY OF LITTLE ROCK (PLAT BOOK 1 PAGE 62), 140.0 FEET TO A FOUND 1/2 INCH REBAR WITH CAP ON THE NORTH LINE OF A EAST-WEST ALLEY (20 FOOT WIDTH); THENCE NORTH 88 DEGREES 50 MINUTES 28 SECONDS WEST, ALONG THE NORTH LINE OF SAID EAST-WEST ALLEY, 196.7 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 27,522 SQUARE FEET OR 0.632 ACRES MORE OR LESS, ACCORDING TO SURVEY BY GLOBAL SURVEYING CONSULTANTS INC. JOB NO. 11-1007.00.

TRACT 4:

BEING ALL OF TRACT E, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE (CPS) BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET BEING THE POINT OF BEGINNING; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 194.70 FEET TO A FOUND SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, FOR 160.25 FEET TO A FOUND CPS WHICH IS IN LINE WITH THE EAST WALL OF A TWO STORY BRICK BUILDING OCCUPIED BY DILLARD DEPARTMENT STORES, INC.; THENCE NORTH 01 DEGREE 24 MINUTES 36 SECONDS EAST, ALONG SAID EAST WALL AND EAST WALL PROJECTED NORTH, FOR 573.88 FEET TO A FOUND CPS ON THE SOUTH LINE OF AN ALLEY (20' IN WIDTH); THENCE SOUTH 88 DEGREES 50 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH LINE, 130.04 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE NORTH 00 DEGREES 24 MINUTES 21 SECONDS EAST, 46.2 FEET TO A FOUND CPS, THENCE SOUTH 89 DEGREES 01 MINUTES 54 SECONDS EAST, 622.33 FEET TO A FOUND PK NAIL ON THE WEST RIGHT OF WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 00 DEGREES 01 MINUTE 49 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 54.98 FEET TO A FOUND CPS; THENCE NORTH 89 DEGREES 03 MINUTES 32 SECONDS WEST, 200.0 FEET TO A SCRIBED "X" IN CONCRETE; THENCE SOUTH 01 DEGREES 21 MINUTES 37 SECONDS WEST, 200.0 FEET TO A SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 59.44 FEET TO A SCRIBED "X" IN CONCRETE; THENCE SOUTH 01 DEGREES 26 MINUTES 04 SECONDS WEST, 368.45 FEET TO A SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 69.98 FEET TO A FOUND SCRIBED "X"; THENCE SOUTH 01 DEGREES 21 MINUTES 37 SECONDS WEST, 150.0 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, 143.67 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 01 DEGREES 21 MINUTES 37 SECONDS EAST, 128.83 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, 199.95 FEET TO A FOUND SCRIBED "X" ON THE WEST RIGHT OF WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 00 DEGREES 02 MINUTES 47 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 122.88 FEET TO A FOUND SCRIBED "X"; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.36 FEET, AN ARC LENGTH OF 46.66 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 45 DEGREES 37 MINUTES 42 SECONDS WEST, 41.91 FEET TO A FOUND 1/2 INCH REBAR; THENCE NORTH 88 DEGREES 31 MINUTES 36 SECONDS WEST, 159.92 FEET TO A FOUND 1/2 INCH REBAR; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 101.00 FEET, AN ARC LENGTH OF 65.98 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 72 DEGREES 27 MINUTES 50 SECONDS WEST, 64.66 FEET TO A FOUND 1/2 INCH REBAR ON THE NORTH RIGHT OF WAY LINE OF MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 359.30 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 414,485 SQUARE FEET OR 9.515 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS, INC., JOB NO. 11-1007.00.

Tract 5: (Easement)

Together with rights of ingress and egress as set forth in that certain Construction, Operation and Reciprocal Easement Agreement by and among Construction Developers, Incorporated, an Arkansas Corporation, Dillard Department Stores, Inc., a Delaware Corporation and Herring-Marathon Master Partnership B, a Texas General Partnership, filed for record December 31, 1986 and recorded as Instrument No. 86-82744; First Amendment thereto filed for record July 27, 1988 and recorded as Instrument No. 88-39542; Assignment and Assumption thereof filed for record February 15, 1996 and recorded as Instrument No. 96-13164; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 96-68743; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 2000027336; further Assignment of Reciprocal Easement Agreement by Park Plaza Mall, LLC, a Delaware limited liability company to CBL/Park Plaza Mall, LLC, a Delaware limited liability company, filed for record June 23, 2004 and recorded as Instrument No. 2004050062 over and across the following described lands:

A part of the Northeast Quarter of the Northeast Quarter, Section 1, Township 1 North, Range 13 West, which includes a portion of "B" Street closed by City of Little Rock, Ordinance No. 11,439 and Lots 7 through 13 and Lots 14 through 26, inclusive, Henry Meirose Addition to the City of Little Rock, all being in Pulaski County, Arkansas, more particularly described as follows: From the Southeast corner of the said Northeast Quarter of the Northeast Quarter; run thence North 88 degrees 38 minutes 23 seconds West and along the South line of the said Northeast Quarter of the Northeast Quarter and the centerline of West Markham Street (of 60 foot width) for 651.67 feet; thence North 01 degrees 21 minutes 37 seconds East for 30.0 feet to the North right of way line of West Markham Street and the Point of Beginning; thence North 88 degrees 38 minutes 23 seconds West and along the North right of way line of West Markham Street for 264.08 feet; thence North 01 degrees 21 minutes 37 seconds East for 42.0 feet; thence North 88 degrees 38 minutes 23 seconds West for 250.64 feet; thence North 00 degrees 29 minutes East for 168.54 feet; thence North 88 degrees 37 minutes 06 seconds West for 150.11 feet to the East right of way line of McKinley Street (of 30.0 foot width) and a point 15.0 feet East of the West line of the Northeast Quarter of the Northeast Quarter; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 556.51 feet to the Northwest corner of Lot 26, Henry Meirose Addition to the City of Little Rock (as recorded in Plat Book 1, Page 62) and the Southwest corner of an alley (of 20 foot width) running in an East-West direction; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 20.0 feet to the Southwest corner of Lot 1, Henry Meirose Addition and the Northwest corner of the East-West alley; thence South 88 degrees 50 minutes 28 seconds East and along the South line of Lots 1, 2, 3, 4, 5, and 6, Henry Meirose Addition to the City of Little Rock and the North line of the East-West alley for 294.00 feet to the common South corner of Lots 6 and 7, Henry Meirose Addition to the City of Little Rock; thence North 00 degrees 29 minutes East and along the common line of said Lots 6 and 7 for 140.00 feet to the common North corner of said Lots 6 and 7 and a point on the South right of way line of "C" Street (varying width right of way); thence South 88 degrees 50 minutes 28 seconds East and along the North line of Lots 7, 8, 9, 10, 11, 12 and 13, Henry Meirose Addition to the City of Little Rock and the South right of way line of "C" Street for 336.50 feet to the Northeast corner of said Lot 13 and the West right of way line of Arthur Street; thence South 00 degrees 29 minutes West and along the West right of way line of Arthur Street 140.00 feet to the Southeast corner of Lot 13, Henry Meirose Addition to the City of Little Rock, and a point on the East-West alley previously mentioned; thence North 88 degrees 50 minutes 28 seconds West and along the South line of Lots 13, 12 and 11, Henry Meirose Addition To the City of Little Rock and along the North line of said East-West alley for 114.11 feet to a point which is in line with the East wall of a two story brick building occupied by Dillard Department Stores, Inc.; thence South 01 degrees 24 minutes 36 seconds West and along the East wall and East wall line projected both North and South for 594.02 feet to a point; thence South 88 degrees 38 minutes 23 seconds East for 160.36 feet to a point; thence South 01 degrees 21 minutes 37 seconds West for 194.81 feet to the Point of Beginning; less and except the East-West alley (of 20 foot width) running through Henry Meirose Addition to the City of Little Rock, more particularly described as follows: Beginning at the Northwest corner of Lot 26, Henry Meirose Addition to the City of Little Rock (as recorded in Plat Book 1, Page 62) and the Southwest corner of an alley (of 20 foot width) running in an East-West direction; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 20.0 feet to the Northwest corner of the alley and the Southwest corner of Lot 1, Henry Meirose Addition; thence South 88 degrees 50 minutes 28 seconds East and along the North line of said East-West alley and the South line of Lots 1, 2, 3, 4,

5, 6, 7, 8, 9, 10 and 11, Henry Meirose Addition to the City of Little Rock, 516.39 feet; thence South 01 degrees 24 minutes 36 seconds West for 20.00 feet to a point on the North line of Lot 16, Henry Meirose Addition to the City of Little Rock and a point on the South line of said East-West alley; thence North 88 degrees 50 minutes 28 seconds West and along the North line of Lots 16 through 28, inclusive, Henry Meirose Addition to the City of Little Rock and the South line of said East-West alley for 516.07 feet to the Point of Beginning, Less and Except Part of Tract D, Park Plaza Addition in the City of Little Rock, Pulaski County, Arkansas, as recorded in Plat Book C at Page 519, being more particularly described as follows:

Beginning at the Northwest corner of the Tract A, Park Plaza Addition; thence North 00 degrees 29 minutes 00 seconds East along the existing East right-of-way line of McKinley Street 183.00 feet; thence South 05 degrees 10 minutes 05 seconds East along the proposed East right-of-way line of McKinley Street 184.17 feet; thence North 88 degrees 40 minutes 09 seconds West 18.14 feet to the point of beginning.

Tract 6 (Easement):

Together with rights of ingress and egress as set forth in that certain Construction, Operation and Reciprocal Easement Agreement by and among Construction Developers, Incorporated, an Arkansas Corporation, Dillard Department Stores, Inc., a Delaware Corporation and Herring-Marathon Master Partnership B, a Texas General Partnership, filed for record December 31, 1986 and recorded as Instrument No. 86-82744; First Amendment thereto filed for record July 27, 1988 and recorded as Instrument No. 88-39542; Assignment and Assumption thereof filed for record February 15, 1996 and recorded as Instrument No. 96-13164; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 96-68743; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 2000027336; further Assignment of Reciprocal Easement Agreement by Park Plaza Mall, LLC, a Delaware limited liability company to CBL/Park Plaza Mall, LLC, a Delaware limited liability company, filed for record June 23, 2004 and recorded as Instrument No. 2004050062, over and across the following described lands: Tract F, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]	
Ilaria Capasso	4052360003
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
ANDERSON, MCCOY & ORTA	
100 N. BROADWAY, SUITE 2600	
26TH FLOOR	
OKLAHOMA CITY OK 73102	

DELAWARE DEPARTMENT OF STATE
U.C.C. FILING SECTION
FILED 01:54 PM 08/24/2011
INITIAL FILING # 2011 1099806
AMENDMENT # 2011 3289892
SRV: 110948798

1a. INITIAL FINANCING STATEMENT FILE # 2011 1099806	1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.
--	--

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ☒ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c. ☐ DELETE name: Give record name to be deleted in item 6a or 6b. ☐ ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME				
WELLS FARGO BANK, NATIONAL ASSOCIATION				
OR	6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME				
DEUTSCHE BANK TRUST COMPANY AMERICAS, IN ITS CAPACITY AS TRUSTEE*				
OR	7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
1055 10TH AVENUE SE CMBS DEPT	MINNEAPOLIS	MN	55414	US
	7d. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION		

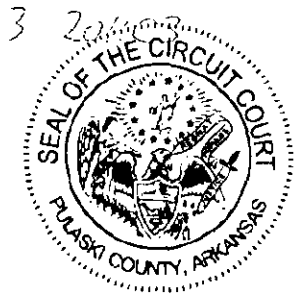
8. AMENDMENT (COLLATERAL CHANGE): check only one box.
Describe collateral ☐ deleted or ☐ added, or give entire ☐ restated collateral description, or describe collateral ☒ assigned.

FOR THE REGISTERED HOLDERS OF WELLS FARGO COMMERCIAL MORTGAGE SECURITIES, INC., COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2011-C3

All collateral assigned as in original UCC.

9. NAME of SECURED PARTY of RECORD AUTHORIZING THIS AMENDMENT
WELLS FARGO BANK, NATIONAL ASSOCIATION

10. OPTIONAL FILER REFERENCE DATA
4011.080



3
Recording Requested by
and when recorded return to:

Wells Fargo Bank, N.A., as Trustee
c/o Anderson, McCoy & Orta
100 North Broadway, 26th FL
Oklahoma City, OK 73102
AMO 401.080

Attention: Megan McCaddon
Loan Name: Park Plaza
Loan No. 310910344

Space Above this Line for Recorder's Use

**ASSIGNMENT OF BENEFICIAL INTEREST IN MORTGAGE, ASSIGNMENT OF
LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to:

DEUTSCHE BANK
"TRUST COMPANY AMERICA", in its capacity as Trustee for the registered holders of Wells Fargo Commercial
Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2011-C3"

all beneficial interest under that certain MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY
AGREEMENT AND FIXTURE FILING dated as of March 24, 2011, and recorded as Instrument No. 2011018357
on March 28, 2011 in the Official Records of the County Recorder's office of Pulaski County, Arkansas.

TOGETHER with the note or notes therein described or referred to and secured thereby, the money due and to
become due thereon with interest and all rights accrued or to accrue under said MORTGAGE, ASSIGNMENT OF
LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING.

Dated: July 29, 2011

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: Brigid M. Mattingly
Name: Brigid M. Mattingly
Title: Managing Director

EXHIBIT E

3 2011C3

3

Recording Requested by
and when recorded return to:

Wells Fargo Bank, N.A., as Trustee
c/o Anderson, McCoy & Orta
100 North Broadway, 26th FL
Oklahoma City, OK 73102
AMO 4011.080

Attention: Megan McCaddon
Loan Name: Park Plaza
Loan No. 310910344

Space Above this Line for Recorder's Use

**ASSIGNMENT OF BENEFICIAL INTEREST IN MORTGAGE, ASSIGNMENT OF
LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to:

DEUTSCHE BANK
"TRUST COMPANY AMERICANS", in its capacity as Trustee for the registered holders of Wells Fargo Commercial
Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2011-C3"

all beneficial interest under that certain MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY
AGREEMENT AND FIXTURE FILING dated as of March 24, 2011, and recorded as Instrument No. 2011018357
on March 28, 2011 in the Official Records of the County Recorder's office of Pulaski County, Arkansas.

TOGETHER with the note or notes therein described or referred to and secured thereby, the money due and to
become due thereon with interest and all rights accrued or to accrue under said MORTGAGE, ASSIGNMENT OF
LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING.

Dated: July 29, 2011

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: Brigid M. Mattingly
Name: Brigid M. Mattingly
Title: Managing Director

ACKNOWLEDGEMENT

STATE OF ILLINOIS

)

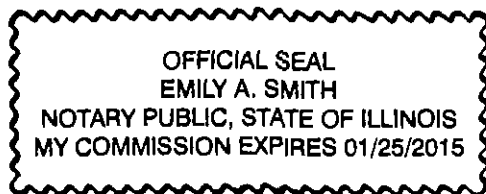
) SS

COUNTY OF COOK

)

On this, the 29th day of July, 2011, before me, a Notary Public for the State of Illinois, the undersigned Officer, personally appeared Bridget M. Mattingly, who acknowledged herself to be the Managing Director of Wells Fargo Bank, N.A., and as such officer, being authorized to do so, executed the foregoing instrument on behalf of said entities for the purposes therein contained.

I hereunto set my hand and official seal.



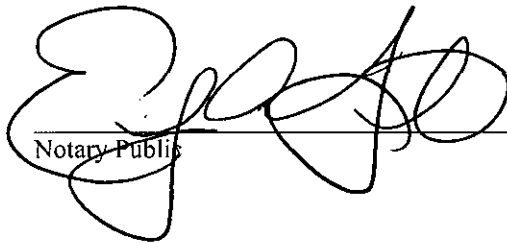

Notary Public

EXHIBIT A

LEGAL DESCRIPTION

Real property in the City of Little Rock, County of Pulaski, State of Arkansas, described as follows:

Tract 1:

Tract A, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas, less and Except Part of Tract A, Park Plaza Addition in the City of Little Rock, Pulaski County, Arkansas, as recorded as Plat No. C-519 being more particularly described as follows:

Beginning at the Southwest corner of the said Tract A, Park Plaza Addition; thence North 00 degrees 29 minutes 00 seconds East along the existing East right of way line of McKinley Street 210.6 feet; thence South 88 degrees 40 minutes 09 seconds East along the North line of said Tract A, 18.14 feet; thence along the proposed East right of way line of McKinley Street the following three courses and distances: 1) South 05 degrees 10 minutes 05 seconds East 67.00 feet 2) South 00 degrees 10 minutes 54 seconds West 124.18 feet; and 3) South 44 degrees 29 minutes 51 seconds East 28.43 feet to the North right-of-way line of West Markham Street; thence along said North right-of-way line North 88 degrees 43 minutes 26 seconds West 45.49 feet to the point of beginning.

Tract 2:

Part of Tract D, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas, being more particularly described as follows:

A part of the Northeast Quarter of the Northeast Quarter, Section 1, Township 1 North, Range 13 West, Pulaski County, Arkansas, more particularly described as follows: From the Southeast corner of the said Northeast Quarter of the Northeast Quarter, run thence North 88 degrees 38 minutes 23 seconds West and along the South line of the said Northeast Quarter of the Northeast Quarter and the centerline of West Markham Street (of 60.0 foot width) for 651.67 feet; thence North 01 degrees 21 minutes 37 seconds East for 30.0 feet to the North right of way line of West Markham Street; thence North 88 degrees 38 minutes 23 seconds West and along the North right of way line of West Markham Street for 264.08 feet to the Point of Beginning; thence North 01 degrees 21 minutes 37 seconds East for 42.00 feet; thence North 88 degrees 38 minutes 23 seconds West for 250.64 feet; thence South 00 degrees 29 minutes West for 42.00 feet to the North right of way line of West Markham Street; thence South 88 degrees 38 minutes 23 seconds East and along the North right of way line of West Markham Street and parallel with the South line of the Northeast Quarter of the Northeast Quarter for 250.00 feet, more or less, to the Point of Beginning.

Tracts 1 and 2 above known as Tax Parcel Number 44L-001-03-001-00.

Tract 3:

Tract C, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Known as Tax Parcel Number 44L-001-03-003-00.

Tract 4:

Tract E, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Known as Tax Parcel Number 441-001-03-005-00.

Being also described in accordance with a survey prepared by GLOBAL SURVEYING CONSULTANTS, INC., JOB NO. 11-1007.00, as follows:

TRACT 1:

BEING A PART OF TRACT A, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE (CPS) BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE, 264.08 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST, 42.00 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 250.40 FEET TO A FOUND CPS BEING THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, 168.50 FEET TO A FOUND 1/2 INCH REBAR; THENCE NORTH 88 DEGREES 37 MINUTES 06 SECONDS WEST, 130.55 FEET TO THE EAST RIGHT OF WAY LINE OF MCKINLEY STREET; THENCE ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING COURSES: SOUTH 05 DEGREES 16 MINUTES 56 SECONDS EAST, 67.64 FEET TO A FOUND NAIL; SOUTH 00 DEGREES 00 MINUTES 02 SECONDS EAST, 124.13 FEET TO A FOUND PAINT SPOT; SOUTH 44 DEGREES 48 MINUTES 19 SECONDS EAST, 28.41 FEET TO A FOUND PAINT SPOT ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET (60' RIGHT OF WAY); THENCE SOUTH 88 DEGREES 52 MINUTES 53 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 102.51 FEET TO A FOUND 1/2" REBAR WITH CAP; THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, 42.00 FEET BACK TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 31,698 SQUARE FEET OR 0.726 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS, JOB NO. 11-1007.00.

TRACT 2:

BEING A PART OF TRACT D, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE, 264.08 FEET TO A FOUND 1/2 INCH REBAR WITH CAP BEING THE POINT OF BEGINNING; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST, 42.00 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 250.40 FEET TO A FOUND CPS; THENCE SOUTH 00 DEGREES 29 MINUTES 00 SECONDS WEST, 42.00 FEET TO A FOUND 1/2 INCH REBAR WITH CAP ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 249.76 FEET BACK TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 10,503 SQUARE FEET OR 0.241 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS JOB NO. 11-1007.00.

ALL OF TRACT C, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID TRACT C BEING A FOUND 1/2 INCH REBAR ON THE EAST RIGHT OF WAY LINE OF MCKINLEY STREET, THENCE NORTH 00 DEGREES 29 MINUTES 00 SECONDS EAST, ALONG SAID EAST RIGHT OF WAY LINE, 140.0 FEET TO A FOUND 1/2 INCH REBAR ON THE SOUTH RIGHT OF WAY LINE OF "C" STREET; THENCE SOUTH 88 DEGREES 50 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, 196.6 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE SOUTH 00 DEGREES 26 MINUTES 31 SECONDS WEST, ALONG THE WEST LINE OF LOT 5, HENRY MEIROSE ADDITION TO THE CITY OF LITTLE ROCK (PLAT BOOK 1 PAGE 62), 140.0 FEET TO A FOUND 1/2 INCH REBAR WITH CAP ON THE NORTH LINE OF A EAST-WEST ALLEY (20 FOOT WIDTH); THENCE NORTH 88 DEGREES 50 MINUTES 28 SECONDS WEST, ALONG THE NORTH LINE OF SAID EAST-WEST ALLEY, 196.7 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 27,522 SQUARE FEET OR 0.632 ACRES MORE OR LESS, ACCORDING TO SURVEY BY GLOBAL SURVEYING CONSULTANTS INC. JOB NO. 11-1007.00.

TRACT 4:

BEING ALL OF TRACT E, PARK PLAZA ADDITION TO THE CITY OF LITTLE ROCK, BEING SHOWN ON PLAT RECORDED AS PLAT NO. C-519, AND BEING LOCATED IN PART OF THE NORTHEAST 1/4 NORTHEAST 1/4, SECTION 1, TOWNSHIP 1 NORTH, RANGE 13 WEST, ALL IN PULASKI COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 NORTHEAST 1/4; RUN THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST AND ALONG THE SOUTH LINE OF THE SAID NORTHEAST 1/4 NORTHEAST 1/4 AND THE CENTERLINE OF WEST MARKHAM (OF 60 FOOT WIDTH) FOR 651.67 FEET; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 30.0 FEET TO A FOUND COTTON PICKER SPINDLE (CPS) BEING ON THE NORTH RIGHT OF WAY LINE OF WEST MARKHAM STREET BEING THE POINT OF BEGINNING; THENCE NORTH 01 DEGREE 21 MINUTES 37 SECONDS EAST FOR 194.70 FEET TO A FOUND SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, FOR 160.25 FEET TO A FOUND CPS WHICH IS IN LINE WITH THE EAST WALL OF A TWO STORY BRICK BUILDING OCCUPIED BY DILLARD DEPARTMENT STORES, INC.; THENCE NORTH 01 DEGREE 24 MINUTES 36 SECONDS EAST, ALONG SAID EAST WALL AND EAST WALL PROJECTED NORTH, FOR 573.88 FEET TO A FOUND CPS ON THE SOUTH LINE OF AN ALLEY (20' IN WIDTH); THENCE SOUTH 88 DEGREES 50 MINUTES 28 SECONDS EAST, ALONG SAID SOUTH LINE, 130.04 FEET TO A FOUND 1/2 INCH REBAR WITH CAP; THENCE NORTH 00 DEGREES 24 MINUTES 21 SECONDS EAST, 46.2 FEET TO A FOUND CPS; THENCE SOUTH 89 DEGREES 01 MINUTES 54 SECONDS EAST, 622.13 FEET TO A FOUND PK NAIL ON THE WEST RIGHT OF WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 00 DEGREES 01 MINUTE 49 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 54.98 FEET TO A FOUND CPS; THENCE NORTH 89 DEGREES 03 MINUTES 32 SECONDS WEST, 200.0 FEET TO A SCRIBED "X" IN CONCRETE; THENCE SOUTH 01 DEGREES 21 MINUTES 37 SECONDS WEST, 200.0 FEET TO A SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 59.44 FEET TO A SCRIBED "X" IN CONCRETE; THENCE SOUTH 01 DEGREES 26 MINUTES 04 SECONDS WEST, 369.45 FEET TO A SCRIBED "X" IN CONCRETE; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, 69.98 FEET TO A FOUND SCRIBED "X"; THENCE SOUTH 01 DEGREES 21 MINUTES 37 SECONDS WEST, 150.0 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, 143.67 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE NORTH 01 DEGREES 21 MINUTES 37 SECONDS EAST, 128.83 FEET TO A FOUND COTTON PICKER SPINDLE; THENCE SOUTH 88 DEGREES 38 MINUTES 23 SECONDS EAST, 199.95 FEET TO A FOUND SCRIBED "X" ON THE WEST RIGHT OF WAY LINE OF UNIVERSITY AVENUE; THENCE SOUTH 00 DEGREES 02 MINUTES 47 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 122.68 FEET TO A FOUND SCRIBED "X"; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.36 FEET, AN ARC LENGTH OF 46.66 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 45 DEGREES 37 MINUTES 42 SECONDS WEST, 41.91 FEET TO A FOUND 1/2 INCH REBAR; THENCE NORTH 88 DEGREES 31 MINUTES 36 SECONDS WEST, 159.92 FEET TO A FOUND 1/2 INCH REBAR; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 101.00 FEET, AN ARC LENGTH OF 65.98 FEET, AND A CHORD BEARING AND DISTANCE OF SOUTH 72 DEGREES 27 MINUTES 50 SECONDS WEST, 64.66 FEET TO A FOUND 1/2 INCH REBAR ON THE NORTH RIGHT OF WAY LINE OF MARKHAM STREET; THENCE NORTH 88 DEGREES 38 MINUTES 23 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 359.30 FEET BACK TO THE POINT OF BEGINNING, SAID TRACT CONTAINING 414,485 SQUARE

FEET OR 9.515 ACRES MORE OR LESS, ACCORDING TO A SURVEY BY GLOBAL SURVEYING CONSULTANTS, INC., JOB NO. 11-1007.00.

Tract 5: (Easement)

Together with rights of ingress and egress as set forth in that certain Construction, Operation and Reciprocal Easement Agreement by and among Construction Developers, Incorporated, an Arkansas Corporation, Dillard Department Stores, Inc., a Delaware Corporation and Herring-Marathon Master Partnership B, a Texas General Partnership, filed for record December 31, 1986 and recorded as Instrument No. 86-82744; First Amendment thereto filed for record July 27, 1988 and recorded as Instrument No. 88-39542; Assignment and Assumption thereof filed for record February 15, 1996 and recorded as Instrument No. 96-13164; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 96-68743; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 2000027336; further Assignment of Reciprocal Easement Agreement by Park Plaza Mall, LLC, a Delaware limited liability company to CBL/Park Plaza Mall, LLC, a Delaware limited liability company, filed for record June 23, 2004 and recorded as Instrument No. 2004050062 over and across the following described lands:

A part of the Northeast Quarter of the Northeast Quarter, Section 1, Township 1 North, Range 13 West, which includes a portion of "B" Street closed by City of Little Rock, Ordinance No. 11,439 and Lots 7 through 13 and Lots 14 through 26, inclusive, Henry Meirose Addition to the City of Little Rock, all being in Pulaski County, Arkansas, more particularly described as follows: From the Southeast corner of the said Northeast Quarter of the Northeast Quarter, run thence North 88 degrees 38 minutes 23 seconds West and along the South line of the said Northeast Quarter of the Northeast Quarter and the centerline of West Markham Street (of 60 foot width) for 651.67 feet; thence North 01 degrees 21 minutes 37 seconds East for 30.0 feet to the North right of way line of West Markham Street and the Point of Beginning; thence North 88 degrees 38 minutes 23 seconds West and along the North right of way line of West Markham Street for 264.08 feet; thence North 01 degrees 21 minutes 37 seconds East for 42.0 feet; thence North 88 degrees 38 minutes 23 seconds West for 250.64 feet; thence North 00 degrees 29 minutes East for 168.54 feet; thence North 88 degrees 37 minutes 06 seconds West for 150.11 feet to the East right of way line of McKinley Street (of 30.0 foot width) and a point 15.0 feet East of the West line of the Northeast Quarter of the Northeast Quarter; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 556.51 feet to the Northwest corner of Lot 26, Henry Meirose Addition to the City of Little Rock (as recorded in Plat Book 1, Page 62) and the Southwest corner of an alley (of 20 foot width) running in an East-West direction; thence North 00 degrees 29 minutes East and along the East right of way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 20.0 feet to the Southwest corner of Lot 1, Henry Meirose Addition and the Northwest corner of the East-West alley; thence South 88 degrees 50 minutes 28 seconds East and along the South line of Lots 1, 2, 3, 4, 5, and 6, Henry Meirose Addition to the City of Little Rock and the North line of the East-West alley for 294.00 feet to the common South corner of Lots 6 and 7, Henry Meirose Addition to the City of Little Rock; thence North 00 degrees 29 minutes East and along the common line of said Lots 6 and 7 for 140.00 feet to the common North corner of said Lots 6 and 7 and a point on the South right of way line of "C" Street (varying width right of way); thence South 88 degrees 50 minutes 28 seconds East and along the North line of Lots 7, 8, 9, 10, 11, 12 and 13, Henry Meirose Addition to the City of Little Rock and the South right of way line of "C" Street for 336.50 feet to the Northeast corner of said Lot 13 and the West right of way line of Arthur Street; thence South 00 degrees 29 minutes West and along the West right of way line of Arthur Street 140.00 feet to the Southeast corner of Lot 13, Henry Meirose Addition to the City of Little Rock, and a point on the East-West alley previously mentioned; thence North 88 degrees 50 minutes 28 seconds West and along the South line of Lots 13, 12 and 11, Henry Meirose Addition To the City of Little Rock and along the North line of said East-West alley for 114.11 feet to a point which is in line with the East wall of a two story brick building occupied by Dillard Department Stores, Inc.; thence South 01 degrees 24 minutes 36 seconds West and along the East wall and East wall line projected both North and South for 594.02 feet to a point; thence South 88 degrees 38 minutes 23 seconds East for 160.36 feet to a point; thence South 01 degrees 21 minutes 37 seconds West for 194.81 feet to the Point of Beginning; less and except the East-West alley (of 20 foot width) running through Henry Meirose Addition to the City of Little Rock, more particularly described as follows: Beginning at the Northwest corner of Lot 26, Henry Meirose Addition to the City of Little Rock (as recorded in Plat Book 1, Page 62) and the Southwest corner of an alley (of 20 foot width) running in an East-West

direction; thence North 00 degrees 29 minutes East and along the East right-of-way line of McKinley Street and parallel with the West line of the Northeast Quarter of the Northeast Quarter for 20.0 feet to the Northwest corner of the alley and the Southwest corner of Lot 1, Henry Melrose Addition; thence South 88 degrees 50 minutes 28 seconds East and along the North line of said East-West alley and the South line of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, Henry Melrose Addition to the City of Little Rock, 516.39 feet; thence South 01 degrees 24 minutes 36 seconds West for 20.00 feet to a point on the North line of Lot 16, Henry Melrose Addition to the City of Little Rock and a point on the South line of said East-West alley; thence North 88 degrees 50 minutes 28 seconds West and along the North line of Lots 15 through 28, inclusive, Henry Melrose Addition to the City of Little Rock and the South line of said East-West alley for 516.07 feet to the Point of Beginning, Less and Except Part of Tract D, Park Plaza Addition in the City of Little Rock, Pulaski County, Arkansas, as recorded in Plat Book C at Page 519, being more particularly described as follows:

Beginning at the Northwest corner of the Tract A, Park Plaza Addition; thence North 00 degrees 29 minutes 00 seconds East along the existing East right-of-way line of McKinley Street 183.00 feet; thence South 05 degrees 10 minutes 05 seconds East along the proposed East right-of-way line of McKinley Street 189.17 feet, thence North 88 degrees 40 minutes 09 seconds West 18.14 feet to the point of beginning.

Tract 6 (Easement):

Together with rights of ingress and egress as set forth in that certain Construction, Operation and Reciprocal Easement Agreement by and among Construction Developers, Incorporated, an Arkansas Corporation, Dillard Department Stores, Inc., a Delaware Corporation and Herring-Marathon Master Partnership B, a Texas General Partnership, filed for record December 31, 1966 and recorded as Instrument No. 86-82744; First Amendment thereto filed for record July 27, 1968 and recorded as Instrument No. 88-39542; Assignment and Assumption thereof filed for record February 15, 1996 and recorded as Instrument No. 96-13164; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 96-68743; Assignment of Reciprocal Easement Agreement recorded as Instrument No. 2000027336; further Assignment of Reciprocal Easement Agreement by Park Plaza Mall, LLC, a Delaware limited liability company to CBL/Park Plaza Mall, LLC, a Delaware limited liability company, filed for record June 23, 2004 and recorded as Instrument No. 2004050062, over and across the following described lands: Tract F, Park Plaza Addition to the City of Little Rock, Pulaski County, Arkansas and being shown on plat recorded as Plat No. C-519, records of Pulaski County, Arkansas.

Jeffrey Snyder, Esq.

Tel 305-375-6148

Fax 305-351-8528

jsnyder@bilzin.com

April 7, 2020

VIA FEDEX OVERNIGHT

Park Plaza Mall CMBS, LLC
c/o CBL & Associates Properties, Inc.
2030 Hamilton Place Blvd.
CBL Center, Suite 500
Chattanooga, Tennessee 37421
Attention: Executive Vice President-Finance

Re: **NOTICE OF EVENT OF DEFAULT AND DEMAND FOR COMPLIANCE**

Loan (the "**Loan**") to PARK PLAZA MALL CMBS, LLC, a Delaware limited liability company ("**Borrower**") by WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Original Lender**"), in the original principal amount of \$99,400,000.00 evidenced by a Promissory Note made by Borrower in favor of Original Lender, secured by, among other things, a Mortgage, Assignment of Leases and Rents, and Security Agreement encumbering property located at 6320 West Markham Street, 6000 West Markham Street, and 6301 C Street in Little Rock, Arkansas ("**Property**"), and a Guaranty of Recourse Obligations executed by CBL & ASSOCIATES PROPERTIES, INC. ("**Guarantor**"), which Loan is currently held by DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE, IN TRUST FOR THE REGISTERED HOLDERS OF WELLS FARGO COMMERCIAL MORTGAGE SECURITIES INC., COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2011-C3 ("**Lender**"), and being specially serviced by Rialto Capital Advisors, LLC ("**Rialto**") / Pool: WFRBS 2011-C3, Loan No.: 310910344.

Dear Borrower and Guarantor:

This law firm represents Lender and Rialto with respect to the Loan. Lender is the owner of the Loan and the documents that evidence and secure the Loan (collectively, the "**Loan Documents**"). Rialto, as the Special Servicer with respect to the Loan, is empowered to act on

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EXHIBIT F

behalf of Lender in connection with the Loan. Initially capitalized terms used in this letter, but not otherwise defined, shall have the meanings ascribed to such terms in the Loan Documents.

An Event of Default has occurred under the Loan Documents and continues to exist as of the date hereof as a result of Borrower's failure to make the payment due on the April 1, 2020 Monthly Payment Date or within five (5) days thereafter in accordance with the Note and the Loan Agreement. Accordingly, please be advised that interest shall be imposed at the Default Rate from and after April 1, 2020 in accordance with the Loan Documents and to the extent permitted under applicable law.

Borrower and Guarantor have also advised Rialto that Borrower intends to cease funding critical operating expenses including, without limitation, utilities and security expenses, to send notices to tenants that it is shutting down the mall, and to abandon the Property, effective immediately. Pursuant to the terms of the Loan Documents, Borrower is obligated to fund any deficiencies in funds available in cash management accounts, including those necessary to cover the Monthly Operating Expense Amount. Moreover, Borrower is obligated to not do or permit to be done anything that may in any way materially impair the value of the Property or the security for the Loan. Lender demands that Borrower comply with its obligations under the Loan Documents with respect to the operation and maintenance of the Property. So there are no misapprehensions, Borrower's threatened course of action would constitute, among other things, willful misconduct and will likely result in material physical waste, each of which constitute an Event of Default and gives rise to recourse liability to Borrower and to Guarantor, which Lender will pursue vigorously.

Given that Borrower has indicated a desire to turnover the Property to Lender, Rialto is willing to work with Borrower to effectuate same on terms acceptable to Lender. However, until turnover to Lender or to a court-appointed receiver can be accomplished, Borrower must refrain from taking any action that will result in waste or impair the value of the Property or Lender's security interest, including shutting down or abandoning the Property. Although Lender is not required to do so, subject to arrangements acceptable to Lender, Lender will work with Borrower to ensure that funds are made available for the payment of current operating expenses that Lender determines are essential.

Please be advised that the Lender may, at its option and without further notice or demand, exercise all rights and remedies provided under the Loan Documents or otherwise available at law or in equity, including, without limitation, the acceleration of the entire principal amount, all accrued interest and all other amounts outstanding under the Loan Documents and the initiation of foreclosure and other collection proceedings. Please contact Justin Reay at Rialto Capital Advisors for the exact amount due and owing ("**Total Due**") and to discuss arrangements to address payment of essential operating expenses. He can be reached at (305) 229-6472 and justin.reay@rialtocapital.com.

Further, in the event Borrower makes any subsequent payment to Lender of any amount less than the Total Due as referenced above ("**Partial Payment**"), Lender may, at its option,


apply such Partial Payment to the Total Due as a Partial Payment. No such Partial Payment or the acceptance thereof by Lender shall constitute or be deemed or construed as a waiver of any Event of Default or demand for payment under the Loan Documents. In addition, any Partial Payment or the acceptance of any Partial Payment by Lender shall not constitute or be deemed or construed as a cure of any existing Event of Default under the Loan Documents, a modification of the Loan Documents or the terms of this letter, or a waiver, modification, relinquishment or forbearance by Lender of any of Lender's rights or remedies under the Loan Documents or at law or at equity, all of which rights and remedies Lender hereby expressly reserved.

Nothing contained in this letter shall constitute (i) a waiver or modification of the terms of the Loan Documents or of any of Lender's rights or remedies under the Loan Documents; (ii) a waiver by Lender of any defaults under the Loan Documents (whether or not (X) known to Lender, (Y) described herein, or (Z) currently existing or occurring hereafter); (iii) an election of remedies; or (iv) a warranty or representation or agreement that Lender will amend or modify the existing terms of the Loan, or that Lender will take or forbear from taking any action with respect to the Loan.

No modification of the Loan Documents and no agreement or understanding of any nature shall be deemed to have been entered into by or be binding upon Lender or Rialto unless and until Lender, Borrower and Guarantor have reached agreement on all issues, and such entire agreement shall have been reduced to a written document that expressly states that it modifies the Loan Documents and is fully executed by Lender, Borrower and Guarantor. Oral agreements, emails, memoranda of meetings, summaries of proposed terms, etc., shall have no effect whatsoever and shall not be binding upon Lender or Rialto.

PLEASE BE GOVERNED ACCORDINGLY.

Very truly yours,



Jeffrey Snyder

Pursuant to the Fair Debt Collection Practices Act, you are advised that this office is deemed to be a debt collector, that the debt collector is attempting to collect a debt, and any information obtained will be used for that purpose.

ATTENTION TO ANY DEBTOR IN BANKRUPTCY OR ANY DEBTOR WHO HAS RECEIVED A DISCHARGE IN BANKRUPTCY OR WHO MAY HAVE PAID OR SETTLED, OR OTHERWISE NOT BE OBLIGATED UNDER, THE LOAN: Please be advised that, anything contained in this letter to the contrary notwithstanding, in the event that

Borrower or Guarantor has filed for protection under the United States Bankruptcy Code or any similar state law (collectively, "**Insolvency Laws**"), this letter constitutes neither a demand for payment of the Loan nor a notice of personal liability to nor action against any recipient hereof who might have received a discharge of the Loan in accordance with applicable Insolvency Laws or who might be subject to the automatic stay of Section 362 of the United States Bankruptcy Code, or other similar Insolvency Law, or who has paid or settled or is otherwise not obligated by law for the Loan.

cc: Justin Reay - *via email*

With copies to:

VIA FEDEX OVERNIGHT

Park Plaza Mall CMBS, LLC
c/o CBL & Associates Properties, Inc.
2030 Hamilton Place Blvd.
CBL Center, Suite 500
Chattanooga, Tennessee 37421
Attention: General Counsel

CBL & Associates Properties, Inc.
c/o CBL & Associates Properties, Inc.
2030 Hamilton Place Blvd.
CBL Center Suite 500
Chattanooga, Tennessee 37421
Attention: General Counsel