
CAPITAL ONE, NATIONAL ASSOCIATION
as Administrative Agent and as a Lender

**THE PERSONS WHO ARE OR HEREAFTER
BECOME PARTIES TO THIS LOAN AGREEMENT AS LENDERS,**
as Lenders,

and

**LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY,
MISSOURI,**
as Borrower,

and

HOSPITAL HILL MEDICAL OFFICE BUILDING, LLC,
a Delaware limited liability company

**LOAN AGREEMENT
(Amended and Restated)**

Dated as of: December * , 2020

DOCUMENT PREPARED BY:

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LOAN AGREEMENT (Amended and Restated)

This Loan Agreement (this “**Agreement**”) is entered into as of December * [REDACTED], 2020, by and among CAPITAL ONE, NATIONAL ASSOCIATION (“**CONA**”), as administrative agent and collateral agent for the Lenders (as defined herein) (in such capacity and together with its successors and permitted assigns, “**Administrative Agent**”), **THE PERSONS WHO ARE OR HEREAFTER BECOME PARTIES TO THIS AGREEMENT** as Lenders (together with their successors and permitted assigns, each a “**Lender**” and collectively, the “**Lenders**”), **LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI**, a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri (“**Borrower**”), and **HOSPITAL HILL MEDICAL OFFICE BUILDING, LLC**, a Delaware limited liability company (“**Master Lessee**”).

Reference is made to (i) Section 12.3 of this Agreement which addresses the personal liability of LCRA under this Agreement, and (ii) Article 13 of this Agreement which sets forth, inter alia, the obligations of Master Lessee with respect to certain representations, warranties and covenants of Borrower under this Agreement.

ARTICLE 1 DEFINITIONS

Section 1.1 **Certain Definitions.** As used herein, the following terms have the meanings indicated:

“**Account Debtor**” means “**account debtor**”, as defined in Article 9 of the UCC, and any other obligor in respect of an Account.

“**ACH**” has the meaning assigned in Section 2.6(c).

“**ACH Authorization Form**” means the form attached hereto as Schedule 2.6 to be executed by Borrower authorizing ACH debits from Borrower's account designated therein for the payment of Debt Service and escrow payments required under Section 2.6 hereof.

“**Acknowledgment of Property Manager**” means the Acknowledgment and Agreement of Property Manager executed by Property Manager in favor of Administrative Agent (on behalf of itself and the Lenders), as amended, restated, supplemented, or otherwise modified from time to time.

“**Adjusted Expenses**” means actual operating expenses related to the Project, on an accrual basis for the immediately preceding twelve (12) month period, unless indicated otherwise (in all circumstances, as the same may be reasonably adjusted by Administrative Agent), including: (i) recurring expenses as determined under GAAP, (ii) real estate taxes, (iii) management fees (whether paid or not) in an amount not less than four percent (4%) of effective gross income (or the actual management fee paid, if higher) and (iv) a replacement reserve (whether reserved or not) of not less than \$0.25 per rentable square foot per annum. If operating statements for the period of time in question are not available, the operating statements covering any lesser period of time will be annualized to determine Adjusted Expenses.

“**Adjusted Net Operating Income**” or “**ANOI**” means Adjusted Revenue less Adjusted Expenses, based upon the financial reports provided by Borrower and Master Lessee under Article 6 and approved by Administrative Agent in its reasonable discretion.

“**Adjusted Revenue**” means (i) the Projected Rental Revenue for the three (3) month period immediately following the testing date, plus the Revenue In Place Adjustment for the three (3) month period immediately following the testing date, multiplied by (ii) four (4); *provided, however*, if actual occupancy of the Project exceeds 95%, Adjusted Revenue shall be proportionately reduced assuming an occupancy of 95%.

“**Adjustment Lease**” means a Qualifying Lease which satisfies the following conditions:

(a) monthly rental payments under such Qualifying Lease are abated during the applicable testing period; and

(b) the aggregate monthly rental abatements remaining under such Qualifying Lease as of the applicable testing date do not exceed one (1) month of remaining abatement per year of the remaining term of such Qualifying Lease (exclusive of any unexercised extension options).

“**Administrative Agent**” has the meaning assigned in the preamble to this Agreement.

“**Affected Lender**” has the meaning assigned in Section 2.13(a).

“**Affected Lender Event**” has the meaning assigned in Section 2.13(a).

“**Affiliate**” means, as to any Person, any other Person that, directly or indirectly, through one or more intermediaries, Controls or is Controlled by or is under common Control with such Person or is a director or officer of such Person or of an Affiliate of such Person. Each Borrower Party (other than Borrower) shall be deemed an Affiliate of Master Lessee.

“**Affiliated Manager**” means any property manager in which Master Lessee, or any Affiliate of Master Lessee has, directly or indirectly, any legal, beneficial or economic interest.

“**Agent Parties**” has the meaning assigned in Section 10.14.

“**Agreement**” means this Loan Agreement, as amended, restated, supplemented, or otherwise modified from time to time.

“**Anti-Terrorism Laws**” has the meaning assigned in Section 5.18(f).

“**Applicable Margin**” means (a) when the Contract Rate is determined using the LIBOR Rate, 4.10% per annum, or (b) when, in accordance with the terms of Section 2.10 below, the Benchmark Replacement Rate is used, 4.10% per annum, or (c) when the Base Rate is used, a spread (which may be positive or negative), which spread will approximate the Contract Rate calculated based on the LIBOR Rate or the Benchmark Replacement Rate immediately prior to the implementation of the Base Rate.

“**Approved Fund**” means, with respect to Administrative Agent or any Lender, any Person (other than a natural Person) that (a) is or will be engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business and (b) is advised or managed by (i) Administrative Agent or such Lender, (ii) any Affiliate of Administrative Agent or such Lender or (iii) any Person (other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages Administrative Agent or such Lender.

“**Assignment and Assumption**” means an assignment and assumption agreement duly executed by the parties thereto in connection with the assignment of all or any portion of the Loan in accordance with Section 11.3, to be in form and substance acceptable to Administrative Agent.

“**Assignment of Hedge Agreement**” means any collateral assignment by Master Lessee in favor of Administrative Agent of any Hedge Agreement obtained by Master Lessee in connection with the Loan, as the same may be amended, restated, supplemented and otherwise modified from time to time.

“**ASTM**” means the American Society for Testing and Materials.

“**Award**” has the meaning assigned in Section 3.3.

“**Bank Secrecy Act**” means the Bank Secrecy Act, 31 U.S.C. Section 5311, *et seq.*

“**Bankruptcy Party**” has the meaning assigned in Section 8.7.

“**Base Rate**” means, the rate of interest from time to time announced by CONA at its principal office as its prime commercial lending rate, it being understood that such prime commercial rate is a reference rate and does not necessarily represent the lowest or best rate being charged by CONA to any customer and such rate is set by CONA based upon various factors including CONA’s costs and desired return, general economic conditions and other factors. Any change in such prime rate announced by CONA shall take effect at the opening of business on the day specified in the announcement of such change.

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of the LIBOR Rate with an Unadjusted Benchmark Replacement Rate for each applicable Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by Administrative Agent giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the LIBOR Rate with the applicable Unadjusted Benchmark Replacement Rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the LIBOR Rate with the applicable Unadjusted Benchmark Replacement Rate for U.S. dollar-denominated syndicated or bilateral credit facilities at such time.

“**Benchmark Replacement Conforming Changes**” means, with respect to any Benchmark Replacement Rate, any technical, administrative or operational changes (including changes to the definition of “Contract Rate,” the definition of “Interest Period,” timing and

frequency of determining rates and making payments of interest and other administrative matters) that Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement Rate and to permit the administration thereof by Administrative Agent in a manner substantially consistent with market practice (or, if Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if Administrative Agent determines that no market practice for the administration of the Benchmark Replacement Rate exists, in such other manner of administration as Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement).

“Benchmark Replacement Date” means the earlier to occur of the following events with respect to the LIBOR Rate:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of the LIBOR Rate permanently or indefinitely ceases to provide the LIBOR Rate; or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein.

“Benchmark Replacement Rate” means the sum of (a) the alternate benchmark rate (which may include Term SOFR) that has been selected by Administrative Agent in accordance with the terms of Section 2.10, giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to the LIBOR Rate for U.S. dollar-denominated syndicated or bilateral credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement Rate as so determined would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement.

“Benchmark Transition Event” means the occurrence of one or more of the following events with respect to the LIBOR Rate:

(1) a public statement or publication of information by or on behalf of the administrator of the LIBOR Rate announcing that such administrator has ceased or will cease to provide the LIBOR Rate, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBOR Rate;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for the LIBOR Rate, a resolution authority with jurisdiction over the administrator for the LIBOR Rate or a court or an entity with similar insolvency or resolution authority over the administrator for the LIBOR Rate, which states that the administrator of the LIBOR Rate has ceased or will cease to provide the LIBOR Rate permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to

provide the LIBOR Rate; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate announcing that the LIBOR Rate is no longer representative.

“Benchmark Transition Start Date” means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by Administrative Agent or the Required Lenders, as applicable, by notice to Borrower, the Administrative Agent (in the case of such notice by the Required Lenders) and the Lenders.

“Benchmark Unavailability Period” means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the LIBOR Rate and solely to the extent that the LIBOR Rate has not been replaced with a Benchmark Replacement Rate, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement Rate has replaced the LIBOR Rate for all purposes hereunder in accordance with Section 2.10 and (y) ending at the time that a Benchmark Replacement Rate has replaced the LIBOR Rate for all purposes hereunder pursuant to Section 2.10.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Borrower” has the meaning assigned in the preamble to this Agreement.

“Borrower Formation Documents” has the meaning assigned in Section 5.1(b).

“Borrower Party” means Borrower, Master Lessee, any Guarantor, any general partner of Borrower or Master Lessee, and any general partner in any partnership that is a general partner of Borrower or Master Lessee, any managing member of Borrower or Master Lessee, and any managing member in any limited liability company that is a managing member of Borrower or Master Lessee.

“Borrower’s Account” means the operating account of Master Lessee which is subject to the Deposit Account Control Agreement.

“Business Day” means a day other than a Saturday, a Sunday, or a legal holiday on which national banks located in the State of Illinois are not open for general banking business. If such day relates to the determination of the Libor Rate, “Business Day” means any such day on which dealings in Dollar deposits are conducted by and between banks in the London interbank Eurodollar market.

“Cash Flow Requirements” has the meaning assigned in Section 7.13.

“Cash Sweep Threshold” means (i) prior to ***January 1, 2024**, 6.85% and (ii) on an after ***January 1, 2024**, 7.35%.

“Casualty” has the meaning assigned in Section 3.2.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the interpretation or application thereof by any Governmental Authority, or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, issued or implemented.

“CIP Regulations” has the meaning assigned in Section 10.17.

“Closing Date” means the date the Loan is funded by the Lenders.

“Code” means the Internal Revenue Code of 1986, as amended, and as it may be further amended from time to time, any successor statutes thereto, and applicable U.S. Department of Treasury regulations issued pursuant thereto in temporary or final form.

“Collateral” means all real and personal property with respect to which Liens in favor of Administrative Agent (for the benefit of Lenders) are executed, identified or purported to be granted pursuant to the Loan Documents and which secure the Obligations described in the Loan Documents and the Secured Hedge Agreement, and includes, without limitation, all of Borrower’s right, title and interest in, to and under all personal property, real property, and other assets that arise from, are used in connection with, are related to or are located at the Project, whether now owned by or owing to, or hereafter acquired by or arising in favor of Borrower (including all personal property and other assets owned or acquired under any trade names, styles or derivations thereof), and whether owned or consigned by or to, or leased from or to, Borrower, and regardless of where located; provided, however, notwithstanding anything to the contrary in this Agreement or any other Loan Document, at any time that LCRA is the “Borrower” hereunder, the Collateral, with respect to LCRA, is strictly and exclusively limited to LCRA’s interest in the Project only and shall not apply, or in any manner be deemed to apply, to any property or assets of LCRA other than the Project.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

“Compliance Certificate” means the compliance certificate in the form of Schedule 6.2 attached hereto.

“CONA” has the meaning assigned in the Preamble to this Agreement.

“Condemnation” has the meaning assigned in Section 3.3.

“Consent Required Provision” means any provision of a Major Lease concerning the square feet and location of the demised premises, lease term, rent (including base rent, operating and maintenance expenses, etc.), conditions for an extension of the lease term, subordination and attornment, insurance requirements, casualty and condemnation, assignment and subletting, indemnities, release of a guarantor, monetary obligations on the landlord or a purchase option, unless the modification of such provision is expressly contemplated in the Major Lease approved by Administrative Agent.

“Contest” has the meaning assigned in Section 12.1(b).

“Contract Rate” means (a) prior to a Benchmark Replacement Date, a floating rate of interest equal to the LIBOR Rate, plus the Applicable Margin and (b) on and after the occurrence of a Benchmark Replacement Date, (i) a floating rate of interest equal to the Benchmark Replacement Rate plus the Applicable Margin or (ii) during a Benchmark Unavailability Period, a floating rate of interest equal to the Base Rate plus the Applicable Margin.

“Control” or **“controls”** means, when used with respect to any specified Person, the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract, by its position with such Person as general partner or managing member, or otherwise; and the terms “Controlling” and “Controlled” have the meanings correlative to the foregoing.

“Covered Entity” has the meaning assigned in Section 5.18(f).

“Debt” means, for any Person, without duplication: (a) 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 any of its assets is liable, (b) all unfunded amounts under a loan agreement, letter of credit, or other credit facility for which such Person or any of its assets would be liable or subject, if such amounts were advanced under the credit facility, (c) 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, (d) all indebtedness guaranteed by such Person, directly or indirectly, (e) all obligations under leases that constitute capital leases for which such Person or any of its assets is liable or subject, and (f) all obligations of such Person under interest rate swaps, caps, floors, collars and other interest hedge agreements, in each case whether such Person or any of its assets is liable or subject contingently or otherwise, as obligor, guarantor or otherwise, or in respect of which obligations such Person otherwise assures a creditor against loss; provided, however, notwithstanding anything to the contrary in this Agreement or any other Loan Document, at any time that LCRA is the “Borrower” hereunder, the Debt of LCRA under this Agreement and any other Loan Document to which LCRA is a party is strictly and exclusively limited to LCRA’s Debt under the Loan Documents and shall not apply, or in any manner be deemed to apply, to any other debt of LCRA in connection with any of its property or assets other than the Project.

“Debt Service” means, as of a particular date, for the twelve (12) month period immediately preceding such date, the aggregate interest, fixed principal, and other payments due

under the Loan and under any other permitted Debt relating to the Project expressly approved by Administrative Agent but not including payments applied to escrows or reserves required by Administrative Agent or the Lenders, disregarding any “interest only” period under the Loan and assuming that the principal and interest payments provided for hereunder were due for the entirety of said period. In the event that Debt Service for a period of twelve (12) months is not available, Administrative Agent shall annualize the Debt Service for such period of time as is available.

“**Debt Service Coverage Ratio**” means the ratio of (i) Adjusted Net Operating Income calculated as of the specified Determination Date (or other specified testing date), to (ii) Debt Service calculated as of such date.

“**Default Rate**” means the lesser of (a) the maximum rate of interest allowed by applicable law, and (b) five percent (5%) per annum in excess of the Contract Rate.

“**Defaulting Lender**” means a Lender that (a) has given written notice to Borrower, Administrative Agent, or any other Lender that it will fail to fund any amounts to be funded by such Lender after the Closing Date under this Agreement or otherwise fails to fund such amount under this Agreement, (b) is in default for failing to make payments under one or more syndicated credit facilities (unless subject to a good faith dispute), (c) has declared (or the holding company of such Lender has declared) bankruptcy or is otherwise involved in a liquidation proceeding and Administrative Agent has determined such Lender is reasonably likely to become a Defaulting Lender, or (d) is the subject of a receivership.

“**Deposit Account Control Agreement**” means that certain Deposit Control Agreement dated of even date herewith, by and between Master Lessee, Administrative Agent and First Midwest Bank.

“**Determination Date**” means the last day of each calendar quarter (March 31, June 30, September 30 and December 31) commencing with the calendar quarter ending on December 31, 2020.

“**Division Transaction**” means, with respect to any Restricted Party that is a limited liability company, the adoption of a “plan of division,” the filing of a certificate of division” or the taking of any other action such that such Restricted Party (a) divides into two or more Persons (regardless of whether such Restricted Party survives such division) or (b) creates or reorganizes into one or more “series LLCs.”

“**Dollars**” and the sign “**\$**” each mean the lawful money of the United States of America.

“**Early Opt-in Election**” means the occurrence of:

(1) either (i) a determination by Administrative Agent or (ii) a notification by the Required Lenders to Administrative Agent (with a copy to Borrower and Master Lessee) that the Required Lenders have determined that U.S. dollar-denominated syndicated or bilateral credit facilities being executed at such time, or that include language similar to that contained in Section 2.10 are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace the LIBOR Rate, and

(2) either (i) the election by Administrative Agent or (ii) the election by the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by the Administrative Agent of written notice of such election to Borrower and Master Lessee and the Lenders or by the Required Lenders of written notice of such election to Administrative Agent.

“Easement Agreement” means the Easement Agreement dated July 25, 2014, recorded as Document No. 2014E0062554, Records of Jackson County, Missouri, as amended by Amendment To Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023, Records of Jackson County, Missouri, as may be further amended or modified from time to time.

“Electronic Transmission” means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

“Environmental Indemnity Agreement” means that certain Environmental Indemnity Agreement dated of even date hereof in favor of Administrative Agent (for itself and on behalf of the Lenders) executed by Master Lessee and Guarantor with respect to the Project, as amended, restated, supplemented, or otherwise modified from time to time. The parties expressly acknowledge that LCRA is not a party to the Environmental Indemnity Agreement and that, notwithstanding any other provisions of this Agreement, any other Loan Document or the Environmental Indemnity Agreement to the contrary, LCRA shall have no obligations or liability whatsoever under the Environmental Indemnity Agreement and LCRA shall have no obligation to make any representations or covenants, or to perform or to take any action, with respect to the Environmental Indemnity Agreement.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and all rules and regulations promulgated thereunder.

“Event of Default” has the meaning assigned in Article 8.

“Excess Cash Flow” means, for any period, the amount by which the actual revenue of the Project exceeds the actual expenses of the Project.

“Excess Cash Flow Termination Date” means the date on which (i) Administrative Agent has determined that the Project Yield has equaled or exceeded the Cash Sweep Threshold for two consecutive Determination Dates, and (ii) no Potential Default or Event of Default exists.

“Excluded Hedge Agreement Obligation” means, with respect to any Loan Party Guarantor, any guarantee of any Swap Obligations under a Secured Hedge Agreement if, and only to the extent that and for so long as, all or a portion of the guarantee of such Loan Party Guarantor of, or the grant by such Loan Party Guarantor of a security interest to secure, such Swap Obligation under a Secured Hedge Agreement (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party Guarantor's failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time the guarantee of such Loan Party Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation under a

Secured Hedge Agreement; provided, however, that if any Loan Party Guarantor that was not an “eligible contract participant” at the time any such guarantee of a Swap Obligation under a Secured Hedge Agreement was entered into thereafter becomes an “eligible contract participant,” such Loan Party Guarantor shall, by virtue of the guaranty or security agreement or joinder thereto and without any further action by any Person, be deemed to have guaranteed the Swap Obligations under Secured Hedge Agreements and granted a security interest to secure such Swap Obligations under Secured Hedge Agreements, and such Swap Obligations under Secured Hedge Agreements shall no longer constitute Excluded Hedge Agreement Obligations with respect to such Loan Party Guarantor. If a Swap Obligation under a Secured Hedge Agreement arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation under a Secured Hedge Agreement that is attributable to swaps for which such guarantee or security interest is or becomes illegal.

“**Excluded Taxes**” has the meaning assigned in Section 2.16(a).

“**Extension Period**” has the meaning assigned in Section 2.3(c).

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version of FATCA made after the Closing Date) and any current or future regulations (whether final, temporary or proposed) or official interpretations thereof.

“**Federal Bankruptcy Code**” means Title 11 of the United States Code (11 U.S.C. § 101, *et seq.*), as amended.

“**Federal Flood Insurance**” means, for any Improvements comprising the Project (including any personal property Collateral located on the Project) located in a Special Flood Hazard Area, Federal Flood Insurance or private insurance reasonably satisfactory to Administrative Agent, in either case, that (a) meets the requirements of FEMA and other applicable federal agencies, (b) includes a deductible not to exceed \$50,000 and (c) has a coverage amount equal to the lesser of (i) the insurable value of the buildings and any personal property Collateral located on the Project as determined by Administrative Agent or (ii) the maximum policy limits set under the National Flood Insurance Program.

“**Federal Reserve Bank of New York’s Website**” means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.

“**FEMA**” means the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

“**Financial Institution**” means a United States Financial Institution as defined in 31 U.S.C. 5312, as amended from time to time.

“**FIRREA**” has the meaning assigned in Schedule 2.1.

“**Forfeiture Rights**” has the meaning assigned in Section 5.12.

“**Funds**” means the Replacement Escrow Fund.

“**GAAP**” means generally accepted accounting principles of the Accounting Principles Board of the American Institute of Certified Public Accountants and the Financial Accounting Standards Board that are applicable on the date so indicated and consistently applied.

“**Government Lists**” means (i) the Specially Designated Nationals and Blocked Persons Lists maintained by OFAC, (ii) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Administrative Agent notified Borrower or Master Lessee in writing is now included in “Governmental Lists”, or (iii) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Governmental Authority or pursuant to any Executive Order of the President of the United States of America that Administrative Agent notified Borrower or Master Lessee in writing is now included in “Governmental Lists”.

“**Governmental Approvals**” means, collectively, all consents, licenses and permits and all other authorizations or approvals required from any Governmental Authority to operate the Project.

“**Governmental Authority**” means any federal, state, county or municipal government or political subdivision thereof, any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body (including, without limitation, the State Regulator), or any court, administrative tribunal, or public body.

“**Ground Lease**” means the Ground Lease dated as of March 4, 2014, as amended by (i) First Amendment to Ground Lease dated as of July 1, 2014, and (ii) Amendment to Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023 in the Public Records of Jackson County, Missouri, as evidenced by Memorandum of Ground Lease dated as of July 25, 2014, recorded on July 30, 2014, as Document No. 2014E0062508 in the records of Jackson County, Missouri, as amended by Amendment to Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023 in the Public Records of Jackson County, Missouri, as may be amended or modified from time to time.

“**Ground Lessor**” means Truman Medical Center Incorporated, a Missouri non-profit corporation, and any successor in interest thereto.

“**Guarantor**” means Landmark Healthcare Companies LLC, a Delaware limited liability company.

“**Healthcare Investigations**” means, exclusively with respect to the Project, any inquiries, investigations, probes, audits or proceedings concerning the business affairs, practices, licensing or reimbursement entitlements of the Project, Master Lessee, any Guarantor or any Operator (including, without limitation, inquiries, investigations, probes, audit or procedures concerning potential or actual violations of Healthcare Laws).

“**Healthcare Laws**” means all provisions, rules and regulations pursuant to or promulgated under the False Claims Act (31 U.S.C. Section 3729 et seq.), the Anti-Kickback Act of 1986 (41 U.S.C. Section 51 et seq.), the Federal Health Care Programs Anti-Kickback statute (42 U.S.C. Section 1320-7a(b)), the Ethics in Patient Referrals Act of 1989, as amended (Stark Law) (42 U.S.C. 1395nn), the Civil Monetary Penalties Law (42 U.S.C. Section 1320a-7a), or the Truth in

Negotiations (10 U.S.C. Section 2304 et seq.), Health Care Fraud (18 U.S.C. 1347), Wire Fraud (18 U.S.C. 1343), Theft or Embezzlement (18 U.S.C. 669), False Statements (18 U.S.C. 1001), False Statements (18 U.S.C. 1035), Patent Inducements Statute, and equivalent state statutes and regulations, and any and all rules and regulations promulgated by Governmental Authorities, including the Centers of Medicare and Medicaid Services (CMS), with respect to any of the foregoing.

“Hedge Agreement” means any and all swap agreements (as such term is defined in Section 101 of the Federal Bankruptcy Code) designed to provide protection against fluctuations in interest or currency exchange rates and any other agreements or arrangements designed to provide such protection.

“Hypothetical Project Yield” means, as of any Determination Date, the Project Yield that would exist on such date if the outstanding principal balance of the Loan on such date was reduced by (a) amounts on deposit in the Project Yield Fund on such date, and (b) the face amount of any Special Letter of Credit outstanding on such date.

“Improvements” means the buildings and other improvements now or hereafter located on the Land.

“Indebtedness” means all payment obligations of Borrower or any other Borrower Party to Administrative Agent or to any Lender under the Loan or any of the Loan Documents, including, without limitation, any and all interest, whether or not accruing after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or similar proceeding, and whether or not a claim for post-filing or post petition interest is allowed in any such proceeding; provided, however, notwithstanding anything to the contrary in this Agreement or any other Loan Document, at any time that LCRA is the “Borrower” hereunder, the Indebtedness of LCRA under this Agreement and any other Loan Document to which LCRA is a party is strictly and exclusively limited to LCRA’s Indebtedness under the Loan Documents and shall not apply, or in any manner be deemed to apply, to any other indebtedness of LCRA in connection with any of its property or assets other than the Project.

“Indemnified Matters” has the meaning assigned in Section 11.5.

“Indemnified Person” has the meaning assigned in Section 11.5.

“Insurance Impound” has the meaning assigned in Section 3.4.

“Insurance Premiums” has the meaning assigned in Section 3.1(c).

“Intercreditor Agreement” means the Intercreditor Agreement of even date herewith, executed between Administrative Agent and Mezzanine Lender, as amended or modified from time to time.

“Interest Only Period” means the first twelve (12) Payment Dates commencing with the first Payment Date on ***February** 1, 2021 and ending on the Payment Date on ***January** 1, 2022.

“**Interest Period**” means (a) the period from the Closing Date through the last day of the month in which the Closing Date occurs, and (b) thereafter, each period commencing on the first day of a calendar month and ending on the last day of such month, or if any such date is not a Business Day, the first Business Day thereafter; provided, any Interest Period that would otherwise extend beyond the Maturity Date of the Loan shall end on the Maturity Date.

“**Land**” means the real property located in Kansas City, Jackson County, Missouri, and described in Exhibit A attached hereto.

“**LCRA**” means Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri, but not any successor or assign thereof other than the City of Kansas City, Missouri or other tax-exempt agency of the City of Kansas City, Missouri.

“**LCRA Documents**” means (i) the Redevelopment Contract, and (ii) Funding Agreement dated as of July 25, 2014 by and among Ground Lessor, LCRA and Master Lessee, as the same may be amended or modified from time to time.

“**LCRA Termination Right**” means (i) the right of LCRA to terminate the Master Lease and simultaneously transfer to the lessee under the Master Lease, all right, title and interest of LCRA under the Ground Lease pursuant to Section 15.2 or Section 17.2 of the Master Lease and Section 3.05 of the Redevelopment Contract, and/or (ii) the right of Master Lessee to terminate the Master Lease and simultaneously cause LCRA to transfer all right, title and interest of LCRA under the Ground Lease pursuant to Section 17.1 of the Master Lease and Section 3.02 of the Redevelopment Contract; provided however Master Lessee shall provide Administrative Agent with at least 30 days prior written notice prior to Master Lessee exercising a LCRA Termination Right. In addition, unless earlier terminated pursuant to a LCRA Termination Right, the Master Lease shall terminate at 11:59 p.m. on July 24, 2039, and all of LCRA’s right, title and interest in the Project shall be transferred to the Master Lessee as provided in the Master Lease and the Redevelopment Contract and a Transfer of the Project upon the scheduled expiration of the Master Lease shall also be included within the definition of “LCRA Termination Right” for all purposes under this Agreement and the Loan Documents. Except as expressly provided in Section 7.25 of this Agreement, nothing in this Agreement or any other Loan Document is intended, and shall not be construed, to limit or impair a LCRA Termination Right as provided in the Master Lease and the Redevelopment Contract.

“**Lease Party**” means the party to any Lease that grants to the other party the right to use or occupy any portion of the Project, whether it be Borrower, Master Lessee or any Operator.

“**Leases**” means all leases of, subleases of and occupancy agreements affecting the Project or any part thereof now existing or hereafter executed and all amendments, modifications or supplements thereto (but excluding the Master Lease).

“**Lease Threshold Parameters**” has the meaning specified in Section 4.2.

“**Lender**” has the meaning assigned in the preamble to this Agreement. In addition to the foregoing, solely for the purpose of identifying the Persons entitled to share in payments and collections from the Collateral and the benefit of any guarantees of the Obligations as more fully

set forth in this Agreement and the other Loan Documents, the term “Lender” shall include Secured Hedge Providers. For the avoidance of doubt, any Person to whom any Obligations in respect of a Secured Hedge Agreement are owed and which does not hold any portion of the Loan or any Loan Commitment hereunder shall not be entitled to any other rights as a “Lender” under this Agreement, the other Loan Documents or the Environmental Indemnity Agreement.

“**Lender Cash Management Agreements**” means any and all cash management, overdraft, treasury, foreign exchange, lockbox, sweep-to-line, controlled disbursement, credit or debit card, EFT, ACH and other agreements entered into from time to time between Borrower or any other Borrower Party and Administrative Agent or any Lender or any Affiliate of a Lender.

“**Lender Party Payments**” has the meaning assigned in Section 7.13.

“**Lender Transferee**” has the meaning assigned in Section 11.3.

“**Letter of Credit**” has the meaning assigned in Section 7.13.

“**Liabilities**” means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, taxes, commissions, charges, disbursements and expenses, in each case of any kind or nature (including interest accrued thereon or as a result thereof and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

“**Libor Breakage Amount**” means an amount, as reasonably calculated by any Lender, equal to the amount of any losses, expenses and liabilities (including, without limitation, any loss [including interest paid] and lost opportunity cost in connection with the re-employment of such funds) that such Lender or any of its Affiliates may sustain as a result of any payment of the Loan (or any portion thereof) on any day that is not the last day of the Interest Period applicable thereto (regardless of the source of such prepayment and whether voluntary, by acceleration or otherwise).

“**Libor Rate**” means the greater of (a) 0.00% per annum, or (b) with respect to each Interest Period, the rate for a Libor Reset Date which will be the rate determined by Administrative Agent to be the offered rate for deposits in Dollars for the applicable Interest Period appearing on the Reuters Screen LIBOR01 page as of 11:00 a.m. (London time) two (2) Business Days prior to the Closing Date (with respect to the determination of the initial Libor Rate) or the applicable Libor Reset Date. In the event that such rate does not appear on the Reuters Screen LIBOR01 page at such time, the “**Libor Rate**” shall be determined by reference to such other comparable publicly available service for displaying the offered rate for deposit in Dollars in the London interbank market as may be selected by Administrative Agent and, in the absence of availability, such other method to determine such offered rate as may be selected by Administrative Agent in its sole discretion.

“**Libor Reset Date**” means the first day of each Interest Period following the Closing Date.

“**Lien**” means any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust,

mortgage, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

“**Loan**” means the loan made by the Lenders to Borrower under this Agreement, together with all other amounts evidenced or secured by the Loan Documents.

“**Loan Commitment**” means, with respect to each Lender, the commitment of such Lender to make its Pro Rata Share of the Loan to Borrower, which commitment is in the amount set forth opposite such Lender’s name on **Exhibit C** under the caption “**Lender’s Loan Commitment.**”

“**Loan Documents**” means: (a) this Agreement, (b) the Notes, (c) the Mortgage, (d) the Assignment of Leases and Rents, (e) UCC financing statements, (f) such assignments of management agreements, contracts and other rights as may be requested by Administrative Agent or the Lenders, (g) the Recourse Guaranty Agreement, (h) the Payment Guaranty, (i) the Acknowledgment of Property Manager, (j) the Deposit Account Control Agreement, (k) the Intercreditor Agreement, (l) any Secured Hedge Agreements, (m) all other documents evidencing, securing, governing or otherwise pertaining to the Loan, (n) any letter of credit provided to Administrative Agent (for itself and on behalf of the Lenders) in connection with the Loan, and (o) all amendments, modifications, renewals, substitutions and replacements of any of the foregoing; provided however, in no event shall the term “Loan Documents” include the Environmental Indemnity Agreement.

“**Loan Party Guarantor**” means Borrower, Master Lessee and Guarantor; provided, however, that, with respect to LCRA, subject to the non-recourse provisions of Section 12.3.

“**Loan Year**” means (a) for the first Loan Year, the period commencing on the Closing Date and ending on the last day of the month in which the first anniversary of the Closing Date occurs (unless the Closing Date is on the first day of a month, in which case the first Loan Year shall commence on such Closing Date and end on the date twelve (12) months after the last day of the month immediately preceding the Closing Date) and (b) each consecutive twelve month calendar period after the first Loan Year until the Maturity Date.

“**LTV Ratio**” means the ratio, as reasonably determined by Administrative Agent, of the sum of the outstanding principal balance of the Loan to the “as-is” appraised value of the Project as of the date of determination.

“**Major Lease**” means any Lease or group of Leases to the same Tenant (or Affiliate Tenants) (and any guaranty thereof) demising 25% or more of the Project.

“**Management Agreement**” means, individually and collectively, (a) that certain agreement between Master Lessee and Property Manager for the management of the Project, in the form approved by Administrative Agent on or before the Closing Date, (b) any subsequent management agreement, in form and substance approved by Administrative Agent in accordance with **Section 7.3**, between Master Lessee and a Property Manager and (c) all amendments, restatements, modifications and supplements to a Management Agreement approved by Administrative Agent in accordance with **Section 7.3**.

“Master Lease” means the Master Lease dated as of July 25, 2014, between Borrower, as landlord, and Master Lessee, as tenant, as evidenced by Memorandum of Master Lease dated as of July 25, 2014, recorded on August 1, 2014, as Document No. 2014E0063360 in the records of Jackson County, Missouri, all as amended by Amendment to Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023 in the records of Jackson County, Missouri, as the same may be further amended or modified from time to time, as affected by the Master Lease NDA. Unless earlier terminated pursuant to a LCRA Termination Right, the term of Master Lease expires at 11:59 p.m. on July 24, 2039.

“Master Lease Documents” means the Master Lease and the Master Lease NDA.

“Master Lease NDA” means the Non Disturbance, Recognition and Attornment Agreement dated as of July 25, 2014, recorded on August 4, 2014, as Document No. 2014E0063992 in the records of Jackson County, Missouri, relating to the Master Lease, as amended by Amendment to Hospital Hill Documents dated October 14, 2015, recorded as Document No. 2015E0094023 in the records of Jackson County, Missouri.

“Master Lessee” has the meaning assigned in the preamble of this Agreement.

“Material Action” means to file any insolvency, or reorganization case or proceeding, to institute proceedings to have any Borrower Party be adjudicated bankrupt or insolvent, to institute proceedings under any applicable insolvency law, to seek any relief under any law relating to relief from debts or the protection of debtors, to consent to the filing or institution of bankruptcy or insolvency proceedings against any Borrower Party, to file a petition seeking, or consent to, reorganization or relief with respect to any Borrower Party under any applicable federal or state law relating to bankruptcy or insolvency, to seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official of or for any Borrower Party or a substantial part of its respective property, to make any assignment for the benefit of creditors of any Borrower Party, the admission in writing by any Borrower Party of such Person’s inability to pay its debts generally as they become due, or to take action in furtherance of any of the foregoing. At any time that LCRA is the “Borrower” hereunder, LCRA shall not be considered a Borrower Party for purposes of this definition.

“Material Adverse Change” or **“material adverse change”** means, in Administrative Agent’s reasonable discretion, the business prospects, operations or financial condition of a Person or property has changed in a manner which could impair the value of the Collateral, prevent timely repayment of the Loan or otherwise prevent the applicable Person from timely performing any of its material obligations under the Loan Documents or Environmental Indemnity Agreement; provided, however, if any such change is reasonably susceptible of cure by the exercise of a LCRA Termination Right, and Borrower or Master Lessee promptly undertake to effectuate and completes an LCRA Termination Right in accordance with the terms of this Agreement, the same change shall not be deemed a Material Adverse Chase or material adverse change hereunder.

“Material Adverse Effect” or **“material adverse effect”** means, in Administrative Agent’s reasonable discretion, a material adverse effect on (i) the condition (financial or otherwise), operations, business, assets, liabilities or prospects of Borrower or Master Lessee taken as a whole, or any other Borrower Party, (ii) the ability of Borrower, Master Lessee or any other

Borrower Party to perform any material obligation required of them under the Loan Documents, (iii) the rights and remedies of Administrative Agent and the Lenders under the Loan Documents, or (iv) the ability of Borrower, Master Lessee or the Operators to operate all or a material portion of the Project. At any time that LCRA is the “Borrower” hereunder, LCRA shall not be considered a Borrower Party for purposes of this definition.

“**Maturity Date**” means, as applicable, the earlier of (a) December *, 2025, unless extended as provided herein, or (b) the date on which the entire Loan is required to be paid in full, by acceleration or otherwise, under this Agreement or any of the other Loan Documents. In no event may the Maturity Date be extended beyond the scheduled expiration date of the Master Lease.

“**Maximum Commitment Amount**” means \$37,500,000.00.

*“**Mezzanine Lender**” means DOC-LM Kansas City MOB, LLC, a Wisconsin limited liability company, its successors and assigns.

“**Mezzanine Loan Documents**” has the meaning assigned such term in the Intercreditor Agreement. The term “Mezzanine Loan Documents” does not include the Purchase Option.

“**Mezzanine Loan Transfer**” has the meaning assigned in Section 7.1(c).

“**Mortgage**” means the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing executed by Borrower and Master Lessee in favor of Administrative Agent (for itself and on behalf of the Lenders), covering the Project, as amended, restated, supplemented, or otherwise modified from time to time.

“**National Flood Insurance Program**” means the program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, and as the same may be further amended, modified or supplemented, and including the regulations issued thereunder, that, among other things, mandates the purchase of flood insurance to cover real property improvements and contents located in Special Flood Hazard Areas in participating communities and may provide protection to property owners through a federal insurance program.

“**Non-Conforming Policy**” has the meaning assigned in Section 3.1.

“**Non-U.S. Lender Party**” means each of Administrative Agent, the Lenders and each participant, in each case that is not a U.S. Person.

“**Note**” and “**Notes**” means, respectively, (a) each promissory note executed at any time by Borrower and payable to the order of a Lender in evidence of the Loan of such Lender and (b) all such promissory notes, together with all renewals, modifications and extensions thereof and any replacement or additional notes executed by Borrower pursuant to the terms hereof.

“**Obligations**” means the Indebtedness and any and all existing and future debts, liabilities and obligations of every kind or nature at any time owing by Borrower and any other Borrower Party to Administrative Agent and Lenders or any Affiliate of a Lender, whether under this

Agreement or any other Loan Document (but only under this Agreement or other Loan Documents), whether joint or several, related or unrelated, primary or secondary, matured or contingent, due or to become due (including debts, liabilities and obligations obtained by assignment), and whether principal, interest, fees, indemnification obligations hereunder or expenses (specifically including interest accruing after the commencement of any bankruptcy, insolvency or similar proceeding with respect to Borrower or any other Borrower Party, whether or not a claim for such post-commencement interest is allowed), including, without limitation, any obligations under any Secured Hedge Agreements, any extensions, modifications, substitutions, increases and renewals of the Loan (provided that the Obligations of any Loan Party Guarantor shall not include Excluded Hedge Agreement Obligations of such Loan Party Guarantor); the payment of all amounts advanced by Administrative Agent, any Lender or any Affiliate of a Lender to preserve, protect and enforce rights hereunder and in the Collateral; and all expenses incurred by Administrative Agent, any Lender or any Affiliate of a Lender or any Secured Hedge Provider. Without limiting the generality of the foregoing, Obligations shall include any other debts, liabilities or obligations relating only to the Loan owing to Administrative Agent, any Lender or any Lender Affiliate in connection with (1) any Lender Cash Management Agreements and (2) any Secured Hedge Agreements; provided, however, that any obligations with respect to Secured Hedge Agreements or Lender Cash Management Agreements, as applicable, that are owing to a Lender or an Affiliate of a Lender other than Administrative Agent or its Affiliates shall only constitute “Obligations” hereunder if the applicable Secured Hedge Agreement or Lender Cash Management Agreement was entered into on or after the Closing Date and the applicable Lender or Affiliate of a Lender gave written notice to Administrative Agent of the same within 10 days thereafter. Further provided, that, notwithstanding anything to the contrary in this Agreement or any other Loan Document, at any time that LCRA is the “Borrower” hereunder, the Obligations of LCRA under this Agreement and any other Loan Document to which LCRA is a party is strictly and exclusively limited to LCRA’s Obligations under the Loan Documents and shall not apply, or in any manner be deemed to apply, to any other obligations of LCRA in connection with any of its property or assets other than the Project.

“**OFAC**” means the Office of Foreign Assets Control, Department of the Treasury.

“**Operator**”, individually, and “**Operators**”, collectively, means the Property Manager or operator under any Operators’ Agreement, approved by Administrative Agent and any successor to such Operator approved by Administrative Agent.

“**Operators’ Agreements**” means the Management Agreement, or other similar agreements regarding the management and operation of the Project between Master Lessee and Property Manager.

“**Other Taxes**” has the meaning assigned in Section 2.16(c).

“**Participant**” has the meaning assigned in Section 11.3(d).

“**Participant Register**” has the meaning assigned in Section 11.3(d).

“**Patriot Act**” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public

Law 107-56), as the same may be amended from time to time, and corresponding provisions of future laws related thereto.

“Payment Date” means the first (1st) day of each calendar month during the term of the Loan.

“Payment Guaranty” means that certain Limited Guaranty of Payment and Performance executed by *Guarantor, as amended, restated, supplemented, or otherwise modified from time to time.

“Permit” means, with respect to any Person, any permit, approval, authorization, license, registration, certificate (including certificates of occupancy), concession, grant, franchise, variance or permission from, and any other contractual obligations with, any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Permitted Exceptions” means the exceptions to title contained in the Title Policy insuring the liens created pursuant to the Mortgage and any other title matter to which Administrative Agent consents in writing.

“Permitted Transfer” means (a) a Transfer expressly permitted under Section 7.1(c), (b) a Prohibited Transfer approved by Administrative Agent, or (c) a Transfer in connection with a LCRA Termination Right completed in accordance with the terms of this Agreement. In no event shall a Division Transaction be considered a Permitted Transfer.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust, government or any agency or political subdivision thereof, or any other form of entity.

“Platform” means any electronic system, including Intralinks®, ClearPar® and any other internet or extranet-based site, whether such electronic system is owned, operated or hosted by Administrative Agent or any Lender, any of their respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

“Post-Closing Obligations” means the post-closing obligations described on *Schedule 11.36*.

“Potential Default” means the occurrence of any event or condition which, with the giving of notice, the passage of time, or both, would constitute an Event of Default.

“Prepayment Fee” means with respect to any prepayment or acceleration occurring, (a) during the first Loan Year, an amount equal to 1.0 % of the principal amount of the Loan being prepaid or accelerated and (b) following the end of the first Loan Year, \$0.00.

“Prepayment Premium” means the Prepayment Fee plus the Libor Breakage Amount.

“Prohibited Person” means any Person:

(i) listed in the Annex to, or otherwise subject to the provisions of, the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the “**Executive Order**”);

(ii) that is owned or controlled by, or acting for or on behalf of, any person or entity that is listed to the Annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) with whom any Lender is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Executive Order;

(iv) who is known to Borrower or Master Lessee to commit, threaten or conspire to commit or support “terrorism”, as defined in the Executive Order;

(v) that is named as a “specially designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/t11sdn.pdf> or at any replacement website or other replacement official publication of such list;

(vi) that is named on the consolidated list of asset freeze targets by the United Nations, the European Union and the United Kingdom (maintained by the Asset Freezing Unit of the United Kingdom Treasury: <http://www.hm-treasury.gov.uk/financialsanctions>);

(vii) that is named on the most current lists pertaining to EU-Regulations Nos. 2580/2001 or 881/2002;

(viii) that violates any of the criminal laws of the United States of America or of any of the several states, or commits any act that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (a) the criminal laws against terrorism; (b) the criminal laws against money laundering, (c) the Bank Secrecy Act, as amended, (d) the Money Laundering Control Act of 1986, as amended, (e) the Trading with the Enemy Act, as amended, (f) the International Emergency Economic Powers Act, or the (g) Patriot Act; or

(ix) who is known to Borrower or Master Lessee to be an Affiliate of or affiliated with a Person listed above.

“**Principals**” mean Benjamin M. Checota, Joseph W. Checota, Ellen M. Checota, and Nicholas F. Checota.

“**Prohibited Transfer**” has the meaning assigned in Section 7.1(a).

“**Project**” means the Land and Improvements and all related facilities, amenities, fixtures, and personal property owned by Borrower or Master Lessee.

“Project Yield” means the ratio, as of any particular date, expressed as a percentage, of (a) Adjusted Net Operating Income calculated as of the specified Determination Date (or other specified testing date), to (b) the outstanding principal balance of the Loan as of such date.

“Project Yield Fund” has the meaning assigned in Section 7.13.

“Projected Rental Revenue” means revenues and rental payments scheduled to be received by Master Lessee under Qualifying Leases, but excluding (a) nonrecurring income and non-property related income (as determined by Administrative Agent in its sole discretion) and income from Tenants that is classified as “bad debt” under GAAP, and (b) late fees and interest income.

“Property Condition Report” has the meaning assigned in Schedule 2.1.

“Property Manager” means Landmark Healthcare Facilities, LLC, a Delaware limited liability company, the manager of the Project approved by Administrative Agent and any successor property manager approved by Administrative Agent.

“Pro Rata Outstandings” means, with respect to any Lender at any time, the outstanding principal amount of the Loan owing to such Lender at such time.

“Pro Rata Share” means, with respect to any Lender at any time (a) on or prior to the date of the making of the Loan contemplated herein, the percentage obtained by dividing (i) the Loan Commitment of such Lender then in effect by (ii) the sum of the Loan Commitments and (b) after the making of the Loan, the percentage obtained by dividing (i) the Pro Rata Outstandings of such Lender by (ii) the total outstanding principal amount of the Loan; provided, however, that, if there are no Loan Commitments and no Pro Rata Outstandings, such Lender’s Pro Rata Share shall be determined based on the Pro Rata Share most recently in effect, after giving effect to any subsequent assignment and any subsequent non-pro rata payments of any Lender pursuant to the terms of this Agreement.

“Prorated Interest” has the meaning assigned in Section 2.4.

***“Purchase Option”** means that certain Right of First Offer and Right of First Refusal Agreement of even date herewith among Master Lessee and Mezzanine Lender.

“Qualified ECP Guarantor” means, in respect of any Swap Obligation under a Secured Hedge Agreement, each Loan Party Guarantor that has total assets exceeding \$10,000,000 at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation under a Secured Hedge Agreement or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Qualified Tenants” means Tenants of the Project that comply with the requirements of the Ground Lease and the Master Lease or that are approved by Ground Lessor and Borrower or Master Lessee.

“Qualifying Leases” means (i) fully executed and delivered Leases with Qualified Tenants and with an initial term of three (3) years or more, entered into in accordance with the terms of this Agreement for which either (a) the Tenant under such Lease is in occupancy and has commenced rental payments and such Lease has a remaining term of 4.5 months or more from the applicable testing date or Master Lessee has provided evidence satisfactory to Administrative Agent that such Tenant is going to renew such Lease, or (b) the Tenant under such Lease is reasonably projected by Administrative Agent to (x) take occupancy of its premises and (y) commence rental payments, in each case, within six (6) months from the applicable testing date, and (ii) other fully executed and delivered Leases which Administrative Agent in its sole discretion determines are Qualifying Leases; *provided, however*, any Lease under which the applicable Tenant is not paying rent as required by the terms of the Lease or which is in material default (whether by landlord or tenant) as of the testing date or as of the reporting date will not be considered a Qualifying Lease.

“Recognition Agreement” means that certain Ground Lessor’s Estoppel, Consent and Non-Disturbance Agreement of even date herewith executed among Administrative Agent, Borrower, Master Lessee and Ground Lessor relating to the Ground Lease and the Master Lease.

“Recourse Guaranty Agreement” means that certain Guaranty of Recourse Obligations executed by Guarantor, as amended, restated, supplemented, or otherwise modified from time to time.

“Redevelopment Contract” means the Sale/Leaseback and Redevelopment Contract by and between Borrower and Master Lessee dated as of July 25, 2014, and recorded as Document No. 2014E0062716, in the records of Jackson County, Missouri.

“Register” has the meaning specified in Section 2.12(b).

“Related Persons” means, with respect to any Person, each of such Person’s Affiliates, officers, directors, employees, agents, trustees, representatives, attorneys, accountants, and each insurance, environmental, legal, financial and other advisor and other consultants and agents of or to such Person or any of its Affiliates.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“Replacement Escrow Fund” has the meaning assigned in Section 2.5.

“Replacement Treasury Yield” means the rate of interest equal to the yield to maturity of the most recently issued U.S. Treasury security as quoted in the Wall Street Journal on any prepayment date. If the remaining term is less than one year, the Replacement Treasury Yield will equal the yield for 1-Year Treasury’s. If the remaining term of the Loan is 1-Year, 2-Year, etc., then the Replacement Treasury Yield will equal the yield for the Treasury’s with a maturity equaling the remaining term. If the remaining term of the Loan is longer than one year but does not equal one of the maturities being quoted, then the Replacement Treasury Yield will equal the yield for Treasury’s with a maturity closest to but not exceeding the remaining term. If the Wall Street Journal (i) quotes more than one such rate, the highest of such quotes shall apply, or

(ii) ceases to publish such quotes, the U.S. Treasury security shall be determined from such financial reporting service or source as Administrative Agent shall determine.

“Reportable Compliance Event” has the meaning assigned in Section 5.18(f).

“Required Lenders” means, as to any consent, approval, authorization, direction or determination required to be given or made by the Lenders: (i) Lenders holding one hundred percent (100%) of the aggregate outstanding principal amount if there are only two Lenders; or (ii) Lenders holding fifty one percent (51%) of the aggregate outstanding principal amount of the Loan if there are more than two Lenders.

“Requirements of Law” means, with respect to any Person or the Project, collectively, the common law and all federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or the Project or any of its property or to which such Person or any of its property is subject, as the same may be amended from time to time.

“Resize Amount” means an amount, as calculated by Administrative Agent upon the occurrence of any Resize Event, that, if applied to the outstanding principal balance of the Loan as of the most recent Determination Date, would have resulted in a Hypothetical Project Yield equal to the Resize Threshold.

“Resize Event” means that, as of any Determination Date, the Project Yield for each of such Determination Date and the immediately preceding Determination Date is less than the Resize Threshold.

“Resize Threshold” means (i) prior to *January 1, 2024, 6.35% and (ii) on an after *January 1, 2024, 6.85%.

“Restoration Threshold” means, as of any date, the lesser of (a) two and one-half percent (2.5%) of the replacement value of the Improvements at the Project as of such date, and (b) \$500,000.00.

“Restricted Party” means (i) Borrower, (ii) any other Borrower Party, (iii) any Affiliated Manager, (iv) any Guarantor, (v) any shareholder, partner, member or non-member manager of Borrower, and (vi) any Person owning a direct or indirect legal or beneficial interest in any Person described in items (i) through (v) above; provided, however, for purposes of this definition, the terms “Borrower” and “Borrower Party” shall not include LCRA.

“Revenue In Place Adjustment” means an amount equal to the monthly rental payments abated under any Adjustment Leases during the applicable testing period, but without duplication of any Projected Rental Revenue for such period.

“Sanctioned Country” has the meaning assigned in Section 5.18(f).

“Sanctioned Person” has the meaning assigned in Section 5.18(f).

“Secured Hedge Agreement” means any (i) Hedge Agreement between Borrower or Master Lessee (or Affiliate of Borrower or Master Lessee) and a Secured Hedge Provider or (ii) any Hedge Agreement Administrative Agent has acknowledged in writing constitutes a “Secured Hedge Agreement” hereunder. LCRA shall not be required to enter into any Hedge Agreement.

“Secured Hedge Provider” means (i) a Lender or an Affiliate of a Lender (or a Person who was a Lender or an Affiliate of a Lender at the time of execution and delivery of a Hedge Agreement) who has entered into a Hedge Agreement with Borrower or Master Lessee, or (ii) a Person with whom Borrower or Master Lessee has entered into a Hedge Agreement provided or arranged by CONA or an Affiliate of CONA, or for which CONA or an Affiliate of CONA has provided credit enhancement through either an assignment right or a letter of credit in favor of such Person, and any assignee thereof.

“Secured Parties” means the Lenders and Administrative Agent and each such Person’s Related Persons.

“Security” means all of the real and personal property securing the Obligations described in the Loan Documents and the Secured Hedge Agreements.

“Security Deposits” means any and all security deposits from any tenant or occupant of the Project collected or held by Borrower, Master Lessee or any Operator.

“Single Purpose Entity” means a Person (other than an individual, a government or any agency or political subdivision thereof), which exists solely for the purpose of owning and leasing the Project, observes corporate, company or partnership formalities, as applicable, independent of any other entity, and which otherwise complies with the covenants set forth in Section 5.17 hereof.

“SOFR” means, with respect to any day, the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York’s Website.

“Special Compliance Certificate” means a compliance certificate in the form of Schedule 7.13.

“Special Flood Hazard Area” means an area that FEMA has designated as an area subject to special flood hazards, the current standard for which is at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year as per the applicable flood maps.

“Special Letter of Credit” means a letter of credit in form and substance satisfactory to Administrative Agent, issued to Administrative Agent, as beneficiary, for the account of Borrower or Master Lessee, as customer, issued by a depository institution acceptable to Administrative Agent in its sole discretion, that includes an “evergreen” provision providing for automatic renewal, and that permits one or more drawings at any time by Administrative Agent; provided, however, notwithstanding anything to the contrary in this Agreement or any other Loan Document, at any time that LCRA is the “Borrower” hereunder, Master Lessee shall be required to provide a

Special Letter of Credit in lieu of LCRA and LCRA shall not be required to provide a Special Letter of Credit.

“**Specially Designated National and Blocked Persons**” means those Persons that have been designated by executive order or by the sanction regulations of OFAC as Persons with whom U.S. Persons may not transact business or must limit their interactions to types approved by OFAC.

“**SPV**” means any special purpose funding vehicle identified as such in a writing by any Lender to Administrative Agent.

“**State Regulator**” means the applicable state department of health or other applicable state or local regulatory agency having jurisdiction over the operation of the Project.

“**Substitute Lender**” has the meaning assigned in Section 2.13(a).

“**Survey**” has the meaning assigned in Schedule 2.1.

“**Swap Obligation**” means, with respect to any Loan Party Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“**Tax Impound**” has the meaning assigned to such term in Section 3.5.

“**Taxes**” has the meaning assigned in Section 7.2.

“**Tenant**” means any tenant or occupant of the Project under a Lease.

“**Term SOFR**” means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“**Title Policy**” has the meaning assigned in Schedule 2.1.

“**Transfer**” means (a) a Division Transaction, or (b) any direct or indirect sale, transfer, conveyance, mortgage, grant of lien or other interest, bargain, installment sale, master lease, 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 all or any portion of the direct or indirect legal or beneficial ownership of, or any interest in, (i) the Project or any part thereof or (ii) any Restricted Party including any agreement to transfer or cede to another Person any voting management or approved rights, or any other rights, appurtenant to such legal or beneficial ownership or other interest. A transfer of the Project in connection with a LCRA Termination Right shall not constitute a Transfer requiring prior written consent of Administrative Agent or any Lenders (including the Required Lenders) and will be a Permitted Transfer hereunder.

“**Transfer Fee**” means an amount equal to one percent (1%) of the outstanding principal balance of the Loan at the time of the Transfer plus the amount, if any, remaining to be funded under the Loan Documents.

“**Transferee**” has the meaning assigned in Section 7.1(d).

“**Trust Transferee**” has the meaning assigned in Section 7.1(e).

“**Trust Transferor**” has the meaning assigned in Section 7.1(e).

“**UCC**” means the Uniform Commercial Code as from time to time in effect in the State of Illinois; provided, however, that, in the event that, by reason of mandatory provisions of any Requirements of Law, any of the attachment, perfection or priority of Administrative Agent’s or any other Lender’s security interest in any Collateral is governed by the Uniform Commercial Code of a jurisdiction other than the State of Illinois, “UCC” shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of the definitions related to or otherwise used in such provisions.

“**Unadjusted Benchmark Replacement Rate**” means the Benchmark Replacement Rate excluding the Benchmark Replacement Adjustment.

“**U.S. Lender Party**” means each of Administrative Agent, the Lenders, and each participant of a Lender, in each case that is a U.S. Person.

“**U.S. Person**” means any United States citizen, any entity organized under the laws of the United States or its constituent states or territories, or any entity, regardless of where organized, having its principal place of business within the United States or any of its territories.

“**Withholding Taxes**” has the meaning assigned in Section 2.16.

“**Zoning Report**” has the meaning assigned in Schedule 2.1.

Section 1.2 Definitions. All terms defined in Section 1.1 above or otherwise in this Agreement shall, unless otherwise defined therein, have the same meanings when used in any other Loan Document or Environmental Indemnity Agreement, or any certificate or other document made or delivered pursuant hereto. The words “hereof”, “herein”, and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole. The words “include” and “include(s)” when used in this Agreement and the other Loan Documents or Environmental Indemnity Agreement means “include(s), without limitation,” and the word “including” means “including, but not limited to.” The word “or” when used in this Agreement and the other Loan Documents or Environmental Indemnity Agreement has the inclusive meaning represented by the phrase “and/or”, unless the usage would clearly indicate otherwise. Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document or the Environmental Indemnity Agreement), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) all references in a Loan Document or the Environmental Indemnity Agreement to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document or the Environmental Indemnity Agreement in which such references appear, and (iv) any

reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time.

Section 1.3 Phrases. When used in this Agreement and the other Loan Documents or Environmental Indemnity Agreement, the phrase “including” shall mean “including, but not limited to,” the phrases “satisfactory to Administrative Agent,” “satisfactory to Lenders,” and “satisfactory to Required Lenders” shall mean “in form and substance satisfactory to the applicable Person in all respects”, the phrases “with Administrative Agent’s consent,” “with the Lenders’ consent,” and “with the Required Lenders’ consent,” or “with Administrative Agent’s approval,” “with the Lenders’ approval,” and “with the Required Lenders’ approval” shall mean such consent or approval at such Person’s sole discretion (except as otherwise specified), and the phrases “acceptable to Administrative Agent,” “acceptable to Lenders,” and “acceptable to the Required Lenders” shall mean “acceptable to such Person at such Person’s sole discretion” unless otherwise specified in this Agreement.

Section 1.4 UCC Terms. Unless otherwise specified herein, the following terms have the meanings ascribed to them in the UCC, provided that if such term shall be defined differently in multiple divisions or articles of the UCC, the definitions for such terms specified in Article or Division 9 of the UCC shall control: “**Accounts,**” “**Account Debtor,**” “**Chattel Paper,**” “**Contracts,**” “**Deposit Accounts,**” “**Documents,**” “**Equipment,**” “**Fixtures,**” “**General Intangibles,**” “**Goods,**” “**Health-Care Insurance Receivable,**” “**Instruments,**” “**Inventory,**” “**Investment Property,**” “**Letter-of-Credit Rights,**” “**Payment Intangible,**” “**Securities Account,**” “**Software**” and “**Supporting Obligations.**”

ARTICLE 2 **LOAN TERMS**

Section 2.1 The Loan. Upon satisfaction of all the terms and conditions of this Agreement (including the items listed on **Schedule 2.1** attached hereto), each Lender severally, but not jointly, agrees to make its Pro Rata Share of the Loan in Dollars to Borrower in the amount of such Lender’s Loan Commitment, which shall be funded in one advance on the Closing Date and repaid in accordance with the terms of this Agreement and the Notes. Borrower hereby agrees to accept the Loan on the Closing Date, subject to and upon the terms and conditions set forth herein. The aggregate amount of all advances of the Loan on a cumulative basis shall not exceed the Maximum Commitment Amount. The Loan is not a revolving credit loan, and Borrower is not entitled to any readvances of any portion of the Loan which it may (or is otherwise required to) prepay pursuant to the provisions of this Agreement. Pursuant to Section 18 of the Master Lease, Master Lessee shall pay for any and all costs and expenses incurred by LCRA (including reasonable attorney’s fees) in connection with the Loan and any amendment, modification, extension or refinancing of the Loan or any Loan Document.

Section 2.2 Interest Rate; Late Charge. The outstanding principal balance of the Loan shall bear interest at the Contract Rate. If Borrower fails to pay any installment of interest or principal within five (5) days after the date on which the same is due excluding the final payment due on the Maturity Date, Borrower shall pay to Administrative Agent, for the account of the Lenders, a late charge on such past due amount, as liquidated damages and not as a penalty, equal

to five percent (5%) of such amount, but not in excess of the maximum amount of interest allowed by applicable law. Administrative Agent shall pay to each Lender its portion of the late charge based on each Lender's Pro Rata Share of the Loan in accordance with Section 2.6. The foregoing late charge is intended to compensate Lenders for the expenses incident to handling any such delinquent payment and for the losses incurred by each Lender as a result of such delinquent payment. Borrower agrees that, considering all of the circumstances existing on the date this Agreement is executed, the late charge represents a reasonable estimate of the costs and losses each Lender will incur by reason of late payment. Borrower and each Lender further agree that proof of actual losses would be costly, inconvenient, impracticable and extremely difficult to fix. Acceptance of the late charge shall not constitute a waiver of the Event of Default arising from the overdue installment, and shall not prevent any Lender from exercising any other rights or remedies available to such Lender with respect to such Event of Default. While any Event of Default exists, the Loan shall bear interest at the Default Rate.

Section 2.3 **Terms of Payment**. The Loan shall be payable as follows:

(a) **Interest and Principal**.

(i) *On the Closing Date, Borrower shall pay to Administrative Agent for the account of the Lenders, a payment of interest only representing interest accrued from the Closing Date through the last day of the month in which the Closing Date occurs, computed at the Contract Rate.

(ii) Commencing on *February 1, 2021, and continuing on each Payment Date thereafter during the Interest Only Period, Borrower shall pay to Administrative Agent for the account of the Lenders, interest only in arrears computed at the Contract Rate on the outstanding principal balance of the Loan.

(iii) Commencing on the *February 1, 2022 Payment Date, and continuing on each Payment Date thereafter through and including the Payment Date immediately prior to the Maturity Date, Borrower shall pay to Administrative Agent for the account of the Lenders, (A) interest in arrears computed at the Contract Rate on the outstanding principal balance of the Loan and (B) installments of principal in accordance with the amortization schedule attached hereto as Schedule 2.3(a). Each of such payments shall be applied (i) to the payment of interest computed at the Contract Rate and (ii) the balance applied toward reduction of the principal sum. The principal payment required hereunder is based on a 30-year amortization schedule.

(b) **Maturity**. On the Maturity Date, Borrower shall pay to Administrative Agent for the account of the Lenders, all outstanding principal, accrued and unpaid interest, default interest, late charges, the Prepayment Premium (if applicable), and any and all other amounts due under the Loan Documents.

(c) **Extension of Maturity Date**. Borrower shall have the right and option to extend the Maturity Date for a period of twelve (12) months (the "**Extension Period**") subject to Borrower's satisfaction of the following conditions precedent:

(i) Borrower shall have notified Administrative Agent in writing of the exercise of the Extension Period no earlier than ninety (90) days nor later than forty-five (45) days prior to the Maturity Date.

(ii) on the date of such written notice and on the date of commencement of the Extension Period:

(A) No Potential Default or Event of Default shall then exist;

(B) The Project shall be * % leased and no more than * % of the Project shall be leased pursuant to Lease expiring during the Extension Period or within * months of the end of the Extension Period ;

(C) The Project Yield shall be at least 7.60%; and

(D) The Debt Service Coverage Ratio shall be at least 1.25:1.0.

(iii) Prior to the commencement of the Extension Period, Administrative Agent shall have obtained, at Borrower's expense, an appraisal report in form and substance and from appraisers reasonably satisfactory to Administrative Agent confirming that the LTV Ratio is no more than 70%.

(iv) Borrower shall have delivered to Administrative Agent an updated title report covering the period from the date of the Title Policy through a current date showing no additional exceptions to title other than those permitted by the terms of the Loan Documents or consented to by Administrative Agent or those that are otherwise reasonably acceptable to Administrative Agent and have no material adverse effect on the use of Project as a medical office building.

(v) Upon such extension, Borrower, Master Lessee and Guarantor shall have executed such documents as Administrative Agent deems reasonably appropriate to evidence the extension and, if requested by Administrative Agent, shall have delivered to Administrative Agent endorsements to the Title Policy in form and substance satisfactory to Administrative Agent.

(vi) At the time of the extension, Borrower shall pay all title insurance premiums, recording fees and reasonable attorneys' fees and expenses incurred by Administrative Agent in connection with the extension.

(d) **Payment by Master Lessee.** In accordance with the terms of Article 3 of the Master Lease, LCRA hereby directs Master Lessee to make all payments due on the Loan directly to Administrative Agent on behalf of and for the account and benefit of LCRA, at such times and in such amounts as required under the Loan Documents.

Section 2.4 **Prepayment.**

(a) **Right to Prepay.** The Loan may be prepaid in whole, but not in part, provided Borrower provides not less than five (5) Business Days' notice to Administrative Agent of such

prepayment and Borrower pays with such prepayment all accrued interest and all other outstanding amounts then due and unpaid under the Loan Documents, including, without limitation, Prorated Interest and, if and to the extent applicable, the Prepayment Premium.

(b) **Prepayment Not Made on a Payment Date.** If for any reason the Loan or any portion thereof is prepaid on a day other than a scheduled monthly Payment Date, Borrower shall pay interest prorated through the date of prepayment (the “**Prorated Interest**”) in addition to the amounts required to be paid under Section 2.4(a) above.

(c) **Partial Prepayment.** If, notwithstanding Section 2.4(a), Administrative Agent permits the Loan to be prepaid in part, Borrower shall pay, in addition to the principal amount prepaid, Prorated Interest on the amount of such prepayment plus any Prepayment Premium applicable to only the amount of principal being prepaid.

(d) **Involuntary Prepayment.** If the Loan is accelerated for any reason, Borrower shall pay to Administrative Agent, for the account of the Lenders, in addition to all other amounts outstanding under the Loan Documents, and if and to the extent applicable, the Prepayment Premium.

(e) **Prepayment Due to Casualty or Condemnation.** In the event of a prepayment resulting from the application of insurance or condemnation proceeds pursuant to Article 3 hereof, provided no Event of Default exists, no Prepayment Premium shall be imposed.

(f) **Character of Prepayment Premium.** The Prepayment Premium does not constitute a penalty, but rather represents the reasonable estimate, agreed to between Borrower and each Lender, of fair compensation for the loss that may be sustained by such Lender due to the payment of the principal Indebtedness prior to the Maturity Date or the increased cost and expense to such Lender resulting from an acceleration of the Loan. Any Prepayment Premium shall be paid without prejudice to the right of Administrative Agent on behalf of Lenders to collect any of the amounts owing under the Note, this Agreement or the other Loan Documents or otherwise, and to enforce any of its rights or remedies arising out of an Event of Default.

(g) **Libor Breakage Amount.** Upon any payment of the Loan (or any portion thereof) on any day that is not the last day of the Interest Period applicable thereto (regardless of the source of such prepayment and whether voluntary, by acceleration or otherwise), Borrower shall pay to Administrative Agent, for the account of Lenders the Libor Breakage Amount.

Section 2.5 **Security; Establishment of Funds.**

(a) **Security.** The Loan shall be secured by the Mortgage creating a first lien on the Project, subject only to the Permitted Exceptions, and the other Loan Documents.

(b) **Establishment of Funds.** Borrower agrees to establish the following reserves with Administrative Agent, to be held by Administrative Agent as further security for the Loan:

(i) Borrower shall deposit with Administrative Agent on each Payment Date one-twelfth (1/12th) of the product of \$0.25 multiplied by the number of rentable square feet in the Project, which shall be held by Administrative Agent for replacements and

repairs required to be made to the Project during the term of the Loan (the “**Replacement Escrow Fund**”).

Administrative Agent shall hold the Funds, and any and all other impounds or reserves otherwise provided for in this Agreement, for the benefit of all Lenders.

(c) **Pledge and Disbursement of Funds**. Borrower hereby pledges to Administrative Agent and the Lenders, and grants a security interest in, any and all monies now or hereafter deposited in the Funds as additional security for the payment of the Loan. Administrative Agent may reasonably reassess its estimate of the amount necessary for the Funds from time to time and may adjust the monthly amounts required to be deposited into the Funds upon thirty (30) days’ notice to Borrower. Administrative Agent shall make disbursements from the Funds as requested by Borrower, and approved by Administrative Agent in its reasonable discretion, on a quarterly basis in increments of no less than \$5,000.00 upon delivery by Borrower or Master Lessee of Administrative Agent’s standard form of draw request accompanied by copies of paid invoices for the amounts requested and, if required by Administrative Agent, lien waivers and releases from all parties furnishing materials or services in connection with the requested payment. Administrative Agent may require an inspection of the Project at Borrower’s expense prior to making a quarterly disbursement in excess of \$50,000 in order to verify completion of replacements and repairs for which reimbursement is sought. The Lenders and Borrower acknowledge and agree that the Funds shall be held without interest in Administrative Agent’s name and may be commingled with the general funds of Administrative Agent. Upon the occurrence and during the continuance of an Event of Default, Administrative Agent may (and at the direction of the Required Lenders shall) apply any sums then present in the Funds to the payment of the Loan in any order in the reasonable discretion of Administrative Agent. Until expended or applied as above provided, the Funds shall constitute additional security for the Loan. Administrative Agent shall have no obligation to release any of the Funds while any Event of Default or Potential Default exists or any Material Adverse Change has occurred in Borrower or any other Borrower Party or the Project. All costs and expenses incurred by Administrative Agent in the disbursement of any of the Funds shall be paid by Borrower promptly upon demand or, at Administrative Agent’s sole discretion, deducted from the Funds.

Section 2.6 **Application of Payments**.

(a) **Waterfall**. Prior to the occurrence of an Event of Default, all payments received by Administrative Agent under the Loan Documents shall be applied, (i) first, to pay Obligations in respect of any cost or expense reimbursements, fees or indemnities then due to Administrative Agent pursuant to this Agreement, any Loan Document or the Environmental Indemnity Agreement, (ii) second, to pay Default Rate interest or late charges, (iii) third, to pay interest then due and payable calculated at the Contract Rate, (iv) fourth, to principal payments due under the Loan and to any Obligations under the Secured Hedge Agreements, (v) fifth, to any reserves, escrows or other impounds required to be maintained pursuant to the Loan Documents, (vi) sixth, to any Prepayment Premium then due, and (vii) seventh, to the ratable payment of all other Obligations. Upon the occurrence and during the continuance of an Event of Default, all payments shall be applied in such order as Administrative Agent shall determine in its sole discretion. Notwithstanding anything herein to the contrary, if at any time during the existence of an Event of Default or following acceleration of the Obligations or on or after the Maturity Date,

Administrative Agent applies any payments received or the proceeds of any Collateral to principal payments on the Loan, Administrative Agent shall apply such payments or proceeds pro rata between such principal payments on the Loan and the Obligations under the Secured Hedge Agreements based on the outstanding principal balance of the Loan and the Obligations under Secured Hedge Agreements.

(b) **Application of Payments Generally.** All repayments of the Loan shall be applied to reduce the remaining installments of the outstanding principal amount of the Loan in the stated order of maturity. If sufficient amounts are not available to repay all outstanding Obligations described in any priority level set forth in this Section 2.6, the available amounts shall be applied, unless otherwise expressly specified herein, to such Obligations ratably based on the proportion of the Secured Parties' interest in such Obligations. Any priority level set forth in this Section 2.6 that includes interest shall include all such interest, whether or not accruing after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or similar proceeding, and whether or not a claim for post-filing or post-petition interest is allowed in any such proceeding. All prepayments of principal, if permitted hereunder or otherwise accepted by Administrative Agent, shall be applied to amounts owing in the inverse order of maturity (i.e., to the final principal installment due with respect to the Loan).

(c) **Payments and Computations.** Borrower and Master Lessee shall make each payment under any Loan Document not later than 11:00 a.m. (Eastern Standard or Daylight Savings time) on the day when due to Administrative Agent by wire transfer or Automated Clearing House ("**ACH**") transfer to be initiated by Administrative Agent pursuant to the ACH Authorization Form (which shall be the exclusive means of payment hereunder) to the following account (or at such other account or by such other means to such other address as Administrative Agent shall have notified Borrower in writing within a reasonable time prior to such payment) in immediately available Dollars and without setoff or counterclaim:

Bank:	Capital One, N.A.
ABA Number:	065000090
Account Number:	38395-10002129
Account Name:	CLS Specialty Finance
Reference:	Hospital Hill Medical Office Building, LLC

Administrative Agent shall cause to be distributed immediately available funds relating to the payment of principal, interest or fees to the Lenders, in accordance with the application of payments set forth in Section 2.6(a), promptly after receipt or deemed receipt, but not later than one Business Day following receipt (or deemed receipt) by Administrative Agent. Administrative Agent shall have no obligation to make any payments to a Lender except out of amounts received or applied by Administrative Agent with respect to the Loan, and only if and to the extent payable in accordance with said Section 2.6(a). Payments received by Administrative Agent after 11:00 a.m. (Eastern Standard or Daylight Savings time) shall be deemed to be received on the next Business Day. It is acknowledged and understood that LCRA's ability and obligation to pay the Loan is limited to rent proceeds available under the Master Lease and LCRA's ownership interest in the Project (and shall not include any assets of LCRA other than the Project).

(d) **Computations of Interests and Fees.** All computations of interest and of fees shall be made by Administrative Agent on the basis of a fraction, the denominator of which is three hundred sixty (360) and the numerator of which is the actual number of days elapsed from the date of the initial disbursement under the Loan or the date of the preceding Payment Date, as the case may be, to the date of the next Payment Date or the Maturity Date. Each determination of an interest rate or the amount of a fee hereunder shall be made by Administrative Agent and shall be conclusive, binding and final for all purposes, absent manifest error.

(e) **Payment Dates.** Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, the due date for such payment shall be extended to the next succeeding Business Day without any increase in such payment as a result of additional interest or fees.

(f) **Advancing Payments.** Unless Administrative Agent shall have received notice from Borrower prior to the date on which any payment is due hereunder that Borrower will not make such payment in full, Administrative Agent may assume that Borrower has made such payment in full to Administrative Agent on such date and Administrative Agent may, in reliance upon such assumption, cause to be distributed to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent that Borrower shall not have made such payment in full to Administrative Agent, each Lender shall repay to Administrative Agent on demand such amount distributed to such Lender together with interest thereon (at the then current interest rate applicable to the Loan) for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to Administrative Agent.

Section 2.7 **Intentionally Omitted.**

Section 2.8 **Capital Adequacy; Increased Costs; Illegality.**

(a) If any Change in Law increases or would have the effect of increasing the amount of capital, reserves or other funds required to be maintained by such Lender and thereby reducing the rate of return on such Lender's capital as a consequence of its obligations hereunder, then Borrower shall from time to time upon demand by such Lender, pay to such Lender, additional amounts sufficient to compensate such Lender for such reduction. A certificate as to the amount of that reduction and showing the basis of the computation thereof submitted by the affected Lender to Borrower shall, absent manifest error, be final, conclusive and binding for all purposes. Each Lender agrees that, as promptly as practicable after it becomes aware of any circumstances referred to above which would result in any such increased cost, such Lender shall, to the extent not inconsistent with such Lender's internal policies of general application, use reasonable commercial efforts to minimize costs and expenses incurred by it and payable to it by Borrower pursuant to this Section 2.8(a).

(b) If, due to any Change in Law there shall be any increase in the cost to any Lender of agreeing to make or making, funding or maintaining the Loan, then Borrower shall from time to time, upon demand by such Lender, pay to such Lender additional amounts sufficient to compensate such Lender for such increased cost. A certificate as to the amount of such increased cost, submitted to Borrower by such Lender, shall be conclusive and binding on Borrower for all purposes, absent manifest error. Each Lender agrees that, as promptly as practicable after it

becomes aware of any circumstances referred to above which would result in any such increased cost, such Lender shall, to the extent not inconsistent with such Lender's internal policies of general application, use reasonable commercial efforts to minimize costs and expenses incurred by it and payable to it by Borrower pursuant to this Section 2.8(b).

(c) Notwithstanding anything to the contrary contained herein (but subject to the terms of Section 2.10), if after the Closing Date, (i) any Change in Law shall make it unlawful, or any central bank or other Governmental Authority shall assert that it is unlawful, for any Lender to agree to make or to make or to continue to fund or maintain its Loan Commitment bearing interest computed by reference to the Libor Rate or any Benchmark Replacement Rate, or (ii) the Libor Rate or any Benchmark Replacement Rate is discontinued or is otherwise no longer available, then (A) with respect to the occurrence described in subsection (i) above, unless such Lender is able to make or to continue to fund or to maintain its Loan Commitment at another office of such Lender without, in such Lender's opinion, adversely affecting it or its Loan Commitment or the income obtained therefrom, on notice thereof and demand therefor by such Lender to Borrower, (1) the obligation of such Lender to agree to make or to make or to continue to fund or maintain its Loan Commitment shall terminate and (2) Borrower shall prepay in full such Lender's Pro Rata Share of the Loan, together with interest accrued thereon, but without payment of any Prepayment Premium, within thirty (30) days following such Lender's demand for payment unless such Lender elects to use the Base Rate as a replacement index, plus an Applicable Margin (which may be negative) to approximate the Contract Rate before such change in law or regulation and (B) with respect to the occurrence described in subsection (ii) above, Administrative Agent will use the Base Rate as a replacement index, plus an applicable spread to approximate the Contract Rate. If any Lender elects to use the Base Rate as contemplated by subsection (A) above or if subsection (B) above is applicable, Administrative Agent will notify Borrower of the Base Rate and the Applicable Margin to be used and the same shall be applied to the Loan effective as of the date such Lender or Administrative Agent determined that the Libor Rate or any Benchmark Replacement Rate was no longer available, as applicable.

(d) Notwithstanding anything herein to the contrary, the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith shall be deemed to be a change in any Requirements of Law under subsection (b) above or a change in capital adequacy requirements under subsection (a) above, as applicable, regardless of the date enacted, adopted or issued.

Notwithstanding anything else to the contrary in this Section 2.8, Borrower shall not be under any obligation to compensate any Lender under this Section 2.8 with respect to increased costs or reductions where such Lender is not demanding such compensation from all of its customers similarly situated. Borrower shall promptly pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction, so long as such amounts have accrued on or after the day which is 250 days prior to the date on which such Lender first made demand therefor.

Section 2.9 Interest Rate Protection. Master Lessee shall, at its sole cost and expense, obtain and maintain throughout the term of the Loan, an interest rate swap for the benefit of Master Lessee pursuant to a Hedge Agreement reasonably satisfactory to Administrative Agent, which Hedge Agreement shall, at Administrative Agent's request, be collaterally assigned to

Administrative Agent (for the benefit of Lenders) pursuant to an Assignment of Hedge Agreement. Any such Hedge Agreement shall be provided by Administrative Agent or any Lender (or an Affiliate of such Person) or a bank or other financial institution whose long-term debt rating is equal to or greater than “A”. Upon repayment of the Loan in full, Administrative Agent shall assign the Hedge Agreements back to Master Lessee or an Affiliate of Master Lessee. Except in connection with a Secured Hedge Agreement, the Project shall not be pledged or encumbered in any manner to secure any obligation under a Hedge Agreement. Master Lessee shall not enter into any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement pertaining to fluctuations in interest rates, or any swaps, caps or collar agreements or similar arrangements providing for protection against fluctuations in currency exchange rates, either generally or under specific contingencies, other than a Hedge Agreement approved by Administrative Agent, and not for speculative purposes. It is further acknowledged and agreed that LCRA shall have no obligation to enter into a Hedge Agreement in connection with the Loan and that any decision by LCRA to enter into a Hedge Agreement in connection with the Loan shall be in LCRA’s sole and absolute discretion.

Section 2.10 **Benchmark Replacement.**

(a) **Benchmark Replacement.** Notwithstanding anything to the contrary contained herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, Administrative Agent may amend this Agreement to replace the LIBOR Rate with a Benchmark Replacement Rate. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Business Day after Administrative Agent has provided such proposed amendment to all Lenders, Borrower and Master Lessee, so long as Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. Any such amendment with respect to an Early Opt-in Election, will become effective on the date that Lenders comprising the Required Lenders have delivered to Administrative Agent written notice that such Required Lenders accept such amendment. No replacement of the LIBOR Rate with a Benchmark Replacement Rate pursuant to this Section 2.10 will occur prior to the applicable Benchmark Transition Start Date.

(b) **Benchmark Replacement Conforming Changes.** In connection with the implementation of a Benchmark Replacement Rate, Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

(c) **Notices; Standards for Decisions and Determinations.** Administrative Agent will promptly notify Borrower, Master Lessee and the Lenders of (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (ii) the implementation of any Benchmark Replacement Rate, (iii) the effectiveness of any Benchmark Replacement Conforming Changes and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Administrative Agent or Lenders pursuant to this Section 2.10, including any determination with respect to a tenor, rate or adjustment or of

the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 2.10.

(d) **Benchmark Unavailability Period.** Upon Borrower's and Master Lessee's receipt of notice of the commencement of a Benchmark Unavailability Period, the Loan will bear interest at the Base Rate, plus the Applicable Margin, provided Administrative Agent shall utilize such Base Rate uniformly to borrowers similarly situated to Borrower (or Master Lessee).

(e) **Interest Rates.** Neither Administrative Agent nor any Lender warrants, or accepts responsibility, nor shall Administrative Agent or any Lender have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "LIBOR Rate" or with respect to any comparable or successor rate thereto including, without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to this Section 2.10, will be similar to, or produce the same value or economic equivalence of, the LIBOR Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

(f) **Conflict with Other Sections.** In the event of a conflict between the terms of this Section 2.10 and the terms of Section 2.8 or any other section of this Agreement, the terms of this Section 2.10 shall control.

Section 2.11 **Intentionally Omitted.**

Section 2.12 **Evidence of Debt.**

(a) **Records of Lenders.** Each Lender shall maintain in accordance with its usual practice accounts evidencing the Indebtedness of Borrower to each Lender resulting from the Pro Rata Share of the Loan of such Lender from time to time outstanding, including the amounts of principal and interest payable and paid to such Lender from time to time under this Agreement. In addition, with respect to each Lender having sold a participation interest in any of the Obligations owing to it, such Lender, acting as agent of Borrower solely for this purpose and solely for tax purposes, shall establish and maintain at its address referred to in Section 11.1 (or at such other address as Administrative Agent shall notify Borrower) a record of ownership, in which such Lender shall register by book entry (i) the name and address of each such participant (and each change thereto, whether by assignment or otherwise) and (ii) the rights, interest or obligation of each such participant in any Obligation owing to such Lender, in any Loan Commitment or any portion of the Loan and in any right of such Lender to receive any payment hereunder.

(b) **Records of Administrative Agent.** Administrative Agent, acting solely for this purpose as an agent of Borrower, shall maintain at one of its offices in the United States a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Loan Commitments of, and principal amounts (and stated interest) of the Loan owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error; provided, however, that no error in such account and no failure of any Lender or Administrative Agent to

maintain any such account shall affect the obligations of any Borrower Party to repay the Loan in accordance with its terms. Borrower, Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(c) **Registered Obligations**. Notwithstanding anything to the contrary contained in this Agreement, the Loan (including any Notes evidencing the Loan) shall constitute a registered obligation, the right, title and interest of the Lenders and their assignees in and to the Loan shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. This Section 2.12 and Section 11.3 shall be construed so that the Loan is at all times maintained in “registered form” within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related regulations (and any successor provisions).

Section 2.13 **Substitution of Lenders**.

(a) In the event that any Lender that is not an Affiliate of Administrative Agent (an “**Affected Lender**”), (i) makes a claim under Section 2.8 or notifies Borrower and Administrative Agent pursuant to Section 2.8 that it becomes illegal for such Lender to continue to fund or maintain its Pro Rata Share of the Loan using the Libor Rate (each, an “**Affected Lender Event**”) or (ii) does not consent to any amendment, waiver or consent to any Loan Document or the Environmental Indemnity Agreement for which the consent of the Required Lenders is obtained but that requires the consent of other Lenders, Borrower may either pay in full such Affected Lender with respect to amounts due with the consent of Administrative Agent (other than the Prepayment Premium if the prepayment is the result of an Affected Lender Event) or substitute for such Affected Lender any Lender or any Affiliate or Approved Fund of any Lender or any other Person acceptable (which acceptance shall not be unreasonably withheld or delayed) to Administrative Agent (in each case, a “**Substitute Lender**”).

(b) To substitute such Affected Lender or pay in full the Obligations owed to such Affected Lender, Borrower shall deliver a notice to Administrative Agent and such Affected Lender. The effectiveness of such payment or substitution shall be subject to the delivery to Administrative Agent by Borrower (or, as may be applicable in the case of a substitution, by the Substitute Lender) of (i) payment for the account of such Affected Lender, of, to the extent accrued through, and outstanding on, the effective date for such payment or substitution, all Obligations owing to such Affected Lender (other than the Prepayment Premium if the prepayment is the result of an Affected Lender Event), and (ii) in the case of a substitution, (A) payment by the Substitute Lender of the assignment fee set forth in Section 11.3 and (B) an Assignment and Assumption whereby the Substitute Lender shall, among other things, agree to be bound by the terms of the Loan Documents and assume the Loan Commitment of the Affected Lender.

(c) Upon satisfaction of the conditions set forth in clause (b) above, Administrative Agent shall record such substitution or payment in the Register, whereupon (i) in the case of any payment in full, such Affected Lender’s Loan Commitment shall be terminated and (ii) in the case of any substitution, (A) the Affected Lender shall sell and be relieved of, and the Substitute Lender shall purchase and assume, all rights and claims of such Affected Lender under the Loan Documents with respect to the Loan, except that the Affected Lender shall retain such rights

expressly providing that they survive the repayment of the Obligations and the termination of the Loan Commitments, (B) the Substitute Lender shall become a “Lender” hereunder having a Loan Commitment in the amount of such Affected Lender’s Loan Commitment and (C) the Affected Lender and the applicable Substitute Lender shall execute and deliver to Administrative Agent an Assignment and Assumption to evidence such substitution and deliver any Note in its possession; provided, however, that the failure of any Affected Lender to execute any such Assignment and Assumption or deliver any such Note shall not render such sale and purchase (or the corresponding assignment) invalid.

Section 2.14 **Pro Rata Treatment; Sharing of Payments.**

(a) **Pro Rata Treatment.** (i) Each advance of the Loan from the Lenders under Section 2.1 shall be made by the Lenders, and any termination of the obligation to make an advance of the Loan shall be applied to the respective Loan Commitments of the Lenders, based on their Pro Rata Share; (ii) each payment or prepayment of principal of the Loan by Borrower shall be made for account of the Lenders based on their Pro Rata Share; and (iii) each payment of interest on the Loan by Borrower shall be made for account of the Lenders pro rata in accordance with the amounts of interest on the Loan then due and payable to the respective Lenders.

(b) **Sharing of Payments, Etc.**

(i) If any Lender shall obtain from Borrower payment of any principal of or interest on the Loan owing or payment of any other amount under this Agreement or any other Loan Document through the exercise of any right of set off, banker’s lien or counterclaim or similar right or otherwise (other than from Administrative Agent as provided herein), and, as a result of such payment, such Lender shall have received a greater percentage of the principal of or interest on the Loan or such other amounts then due hereunder or thereunder by Borrower to such Lender than the percentage received by any other Lender, it shall promptly purchase from such other Lenders participations in (or, if and to the extent specified by such Lender, direct interests in) the Loan or such other amounts, respectively, owing to such other Lenders (or in interest due thereon, as the case may be) in such amounts, and make such other adjustments from time to time as shall be equitable, to the end that all the Lenders shall share the benefit of such excess payment (net of any expenses that may be incurred by such Lender in obtaining or preserving such excess payment) pro rata in accordance with the unpaid principal of or interest on the Loan or such other amounts, respectively, owing to each of the Lenders. To such end, all the Lenders shall make appropriate adjustments among themselves (by the resale of participations sold or otherwise) if such payment is rescinded or must otherwise be restored.

(ii) Borrower agrees that any Lender so purchasing such a participation (or direct interest) may exercise all rights of set off, banker’s lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of the Loan or other amounts (as the case may be) owing to such Lender in the amount of such participation.

(iii) Nothing contained herein shall require any Lender to exercise any such right or shall affect the right of any Lender to exercise, and retain the benefits of exercising, any

such right with respect to any other indebtedness or obligation of Borrower. If, under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a set off to which this Section 2.14(b) applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this Section 2.14(b) to share in the benefits of any recovery on such secured claim.

Section 2.15 Loan Origination Fee. Borrower agrees to pay to Administrative Agent for the benefit of the Lenders on the Closing Date a Loan Origination Fee in an amount equal to 1.00% of the amount of the Loan which shall be fully earned, due and payable and not refundable on the Closing Date.

Section 2.16 Withholding Taxes.

(a) **Payments Free and Clear of Withholding Taxes.** Except as otherwise provided in this Section 2.16, each payment by Borrower or Master Lessee under any Loan Document or the Environmental Indemnity Agreement shall be made free and clear of all present or future taxes, levies, imposts, deductions, charges or withholdings and all liabilities with respect thereto (and without deduction for any of them) (collectively, but excluding the taxes set forth in clauses (i) through (iv) below, the “**Withholding Taxes**”) other than for (i) taxes measured by net income (including branch profits taxes) and franchise taxes imposed in lieu of net income taxes, in each case imposed on any Lender as a result of a connection between such Lender and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than such connection arising solely from any Lender having executed, delivered or performed its obligations or received a payment under, or enforced, any Loan Document or the Environmental Indemnity Agreement), (ii) Withholding Taxes to the extent that the obligation to withhold amounts existed on the date that such Lender became a “Lender” under this Agreement in the capacity under which such Lender makes a claim under this clause (ii), except in each case to the extent such Lender is a direct or indirect assignee (other than pursuant to Section 2.13 (Substitution of Lenders)) of any other Lender that was entitled, at the time the assignment of such other Lender became effective, to receive additional amounts under Section 2.16(b), (iii) taxes that are directly attributable to the failure (other than as a result of a change in any Requirements of Law) by any Lender to deliver the documentation required to be delivered pursuant to clause (f) below and (iv) any United States federal withholding Taxes imposed under FATCA (the taxes described in subsections (i) through (iv) of this Section 2.16(a) herein called “**Excluded Taxes**”).

(b) **Gross-Up.** If any Taxes shall be required by any Requirements of Law to be deducted from or in respect of any amount payable under any Loan Document or the Environmental Indemnity Agreement to any Lender and such Taxes are Withholding Taxes, (i) such amount payable shall be increased as necessary to ensure that, after all required deductions for Withholding Taxes are made (including deductions applicable to any increases to any amount under this Section 2.16), such Lender receives the amount it would have received had no such deductions been made, (ii) the relevant Borrower Party shall make such deductions, (iii) the relevant Borrower Party shall timely pay the full amount deducted to the relevant taxing authority or other authority in accordance with applicable Requirements of Law and (iv) within 30 days after

such payment is made, Borrower shall deliver to Administrative Agent an original or certified copy of a receipt evidencing such payment.

(c) **Other Taxes.** In addition, Borrower agrees to pay, and authorizes Administrative Agent to pay in its name, any stamp, documentary, excise or property tax, charges or similar levies imposed by any applicable Requirements of Law or Governmental Authority and all Liabilities with respect thereto (including by reason of any delay in payment thereof), in each case arising from the execution, delivery or registration of, or otherwise with respect to, any Loan Document, the Environmental Indemnity Agreement or any transaction contemplated therein (collectively, "**Other Taxes**"). Within thirty (30) days after the date of any payment of Withholding Taxes or Other Taxes by any Borrower Party, Borrower shall furnish to Administrative Agent, at its address referred to in Section 11.1, the original or a certified copy of a receipt evidencing payment thereof.

(d) **Indemnification.** Borrower shall reimburse and indemnify, within thirty (30) days after receipt of demand therefor (with copy to Administrative Agent), each Lender for all Withholding Taxes and Other Taxes (including any Withholding Taxes and Other Taxes imposed by any jurisdiction on amounts payable under this Section 2.16) paid by such Lender and any Liabilities arising therefrom or with respect thereto, whether or not such Withholding Taxes or Other Taxes were correctly or legally asserted. A certificate of the Lender (or of Administrative Agent on behalf of such Lender) claiming any compensation under this clause (d), setting forth the amounts to be paid thereunder and delivered to Borrower with copy to Administrative Agent, shall be conclusive, binding and final for all purposes, absent manifest error. In determining such amount, Administrative Agent and such Lender may use any reasonable averaging and attribution methods.

(e) **Mitigation.** Any Lender claiming any additional amounts payable pursuant to this Section 2.16 shall use its reasonable efforts (consistent with its internal policies and Requirements of Law) to change the jurisdiction of its lending office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender. Borrower shall promptly pay to such Lender such additional amounts so long as such amounts have accrued on or after the day which is 250 days prior to the date on which such Lender first made demand therefor.

(f) **Tax Forms.**

(i) Each Non-U.S. Lender Party that, at any of the following times, is entitled to an exemption from United States Withholding Tax or, after a change in any Requirements of Law, is subject to such Withholding Tax at a reduced rate under an applicable Tax treaty, shall (w) on or prior to the date such Non-U.S. Lender Party becomes a "Non-U.S. Lender Party" hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (i) and (z) from time to time if requested by Borrower or Administrative Agent (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and Borrower (or, in the case of a participant or SPV, the relevant Lender) with two completed originals of each of the following, as applicable: (A) Forms W-8ECI (claiming exemption from U.S. Withholding Tax because the income is effectively connected with a U.S. trade

or business), W-8BEN or W-8BEN-E, as applicable (claiming exemption from, or a reduction of, U.S. Withholding Tax under an income tax treaty), or W-8IMY (together with appropriate forms, certifications and supporting statements) or any successor forms, (B) in the case of a Non-U.S. Lender Party claiming exemption under Sections 871(h) or 881(c) of the Code, Form W-8BEN or W-8BEN-E, as applicable (claiming exemption from U.S. Withholding Tax under the portfolio interest exemption), or any successor form and a certificate in form and substance acceptable to Administrative Agent that such Non-U.S. Lender Party is not (1) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (2) a “10 percent shareholder” of Borrower within the meaning of Section 881(c)(3)(B) of the Code or (3) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code or (C) any other applicable document prescribed by the IRS certifying as to the entitlement of such Non-U.S. Lender Party to such exemption from United States Withholding Tax or reduced rate with respect to all payments to be made to such Non-U.S. Lender Party under the Loan Documents. Unless Borrower and Administrative Agent have received forms or other documents satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender Party are not subject to United States Withholding Tax or are subject to such tax at a rate reduced by an applicable tax treaty, Borrower Parties and Administrative Agent shall withhold amounts required to be withheld by applicable Requirements of Law from such payments at the applicable statutory rate.

(ii) Each U.S. Lender Party shall (A) on or prior to the date such U.S. Lender Party becomes a “U.S. Lender Party” hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete, (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (f) and (D) from time to time if requested by Borrower or Administrative Agent (or, in the case of a participant, the relevant Lender), provide Administrative Agent and Borrower (or, in the case of a participant, the relevant Lender) with two completed originals of Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup Withholding Tax) or any successor form.

(iii) Each Lender having sold a participation in any of its Obligations shall collect from such participant the documents described in this clause (f) and provide them to Administrative Agent.

(iv) If a payment made to a Lender would be subject to United States federal Withholding Tax imposed by FATCA if such Lender fails to comply with the applicable reporting requirements of FATCA, such Lender shall deliver to Administrative Agent and Borrower any documentation under any Requirements of Law or reasonably requested by Administrative Agent or Borrower sufficient for Administrative Agent or Borrower to comply with their obligations under FATCA and to determine that such Lender has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment.

(g) **Refunds.** If a Lender has received a refund of (or tax credit with respect to) any Withholding Taxes or Other Taxes as to which it has been indemnified by Borrower or with respect to which Borrower has paid additional amounts pursuant to this Section 2.16, it shall pay over such

refund (or the benefit realized as a result of such tax credit) to Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by Borrower under this Section 2.16 with respect to the Withholding Taxes or Other Taxes giving rise to such refund), net of all out of pocket expenses of the Lender (including any Withholding Taxes imposed with respect to such refund) as is determined by the Lender in good faith, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, that Borrower, upon the request of the Lender, agrees to repay as soon as reasonably practicable the amount paid over to Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Lender in the event the Lender is required to repay such refund to such Governmental Authority. This Section 2.16 shall not be construed to require the Lender to make available its tax returns (or any other information relating to its Withholding Taxes or Other Taxes which it deems in good faith to be confidential) to Borrower or any other person.

(h) **Survival.** Each party's obligations under this Section 2.16 shall survive the resignation or replacement of Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Loan Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

Section 2.17 Several Obligations of Lenders. The failure of any Lender to make any advance of its Loan Commitment to be made by it on the date specified therefor shall not relieve any other Lender of its obligation to make the advance of its Loan Commitment, but neither any Lender nor Administrative Agent shall be responsible for the failure of any other Lender to make the advance to be made by such other Lender.

Section 2.18 Defaulting Lenders.

(a) **Cure of Defaulting Lender Status.** A Defaulting Lender may regain its status as a non-defaulting Lender hereunder upon satisfaction of each of the following conditions, as applicable: (i) payment by such Defaulting Lender of all amounts owing hereunder (whether to Administrative Agent for indemnity purposes or otherwise); (ii) receipt by Administrative Agent of (A) a written revocation by Defaulting Lender of any written notice by Defaulting Lender to Borrower, Administrative Agent, or any other Lender that such Defaulting Lender will fail to fund under this Agreement, or (B) evidence satisfactory to Administrative Agent (in consultation with the Required Lenders) that such Defaulting Lender has publicly revoked any public announcement of the same; (iii) evidence satisfactory to Administrative Agent (in consultation with the Required Lenders) that such Defaulting Lender is no longer in default for failing to make payments under one or more syndicated credit facilities; and (iv) evidence satisfactory to Administrative Agent (in consultation with the Required Lenders) that such Defaulting Lender (or the holding company of such Defaulting Lender) is no longer the subject of a bankruptcy proceeding and is not otherwise involved in any liquidation proceeding, and Administrative Agent has determined such Defaulting Lender is able to meet its obligations hereunder.

(b) **Right of Offset.** Administrative Agent may, in its discretion, hold any payment made by Borrower toward the Loan that is owing to a Defaulting Lender in a non-interest bearing account. Administrative Agent may use such amount to set-off any unfunded reimbursement obligations of such Defaulting Lender until the earliest to occur of (i) such Lender's no longer being a Defaulting Lender hereunder, (ii) such Defaulting Lender being replaced pursuant to

Section 2.18(c), and (iii) indefeasible payment in full by Borrower of all amounts owing hereunder and performance by Borrower of all Obligations.

(c) **Replacement of Defaulting Lender.** If any Lender is a Defaulting Lender, Administrative Agent may, upon notice to such Lender and Borrower, replace such Lender by causing such Lender to assign its Loan (with the related assignment fee to be paid by such Defaulting Lender) pursuant to Section 11.3 to one or more Persons eligible under such Section procured by Administrative Agent. Borrower shall pay in full all principal, interest, fees and other amounts then currently due to such Defaulting Lender through the date of replacement. Any Defaulting Lender being replaced under this Section 2.18(c) shall execute and deliver an Assignment and Assumption with respect to such Lender's Pro Rata Share of the Loan.

ARTICLE 3 **INSURANCE, CONDEMNATION AND IMPOUNDS**

Section 3.1 **Insurance.** Borrower, at its or Master Lessee's sole cost and expense, shall obtain and maintain (or cause to be maintained) during the entire term of the Loan, insurance providing at least the following coverages:

(a) **Property; Business Interruption.** Borrower shall (i) keep the Project insured against damage by fire, acts of domestic and foreign terrorism, any type of wind (including named storms) and such other hazards covered by a special form or all-risk insurance policy (A) for the full insurable value thereof on a replacement cost basis without any coinsurance (B) with a deductible not to exceed \$25,000, except for wind/named storms and earthquake, which shall provide for a deductible of no more than five percent (5%) of the total insurable value of the Project, (C) containing Law & Ordinance coverage if any of the Improvements or the use of the Project shall at any time constitute legal non-conforming structures or uses, including coverage for loss to the undamaged portion of the building (with a limit equal to replacement cost), the cost of demolition and the increased costs of construction (each in amounts as required by Administrative Agent) and (D) shall maintain boiler and machinery insurance and such other property insurance as reasonably required by Administrative Agent. Administrative Agent reserves the right to require such other insurance from time to time, including but not limited to earthquake, flood (in addition to Federal Flood Insurance) and sinkhole, each in amounts acceptable to Administrative Agent. The full insurable value shall be re-determined from time to time (but not more frequently than once in any twelve (12) calendar months) at the request of Administrative Agent by an appraiser or contractor designated and paid by Borrower and approved by Administrative Agent, or by an engineer or appraiser in the regular employ of the insurer. No omission on the part of Administrative Agent to request any such ascertainment shall relieve Borrower of any of its obligations under this Section 3.1. Further, if any portion of the Improvements or personal property at the Project is located currently or at any time in the future in Special Flood Hazard Area, Borrower shall deliver to Administrative Agent the following: (1) evidence as to whether the community in which the Project is located is participating in the National Flood Insurance Program, (2) Borrower's written acknowledgment of receipt of written notification from Administrative Agent as to the fact that the Project is located in a Special Flood Hazard Area and as to whether the community in which such Real Estate is located is participating in the National Flood Insurance Program and (3) copies of the application for a Federal Flood Insurance policy, plus proof of premium payment, a declaration page confirming that Federal Flood Insurance has

been issued, or such other evidence of Federal Flood Insurance satisfactory to Administrative Agent, in all cases naming Administrative Agent as Mortgagee on behalf of the Lenders. Borrower shall maintain business interruption insurance, including rental income loss and extra expense, (A) with loss payable to Administrative Agent, (B) covering all perils required herein to be insured against, (C) covering a period of restoration of eighteen (18) months and containing an extended period of indemnity endorsement which provides that after the physical loss to the Improvements has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Project is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period and (D) in an amount equal to one hundred percent (100%) of the projected gross revenue (less non-continuing expenses) from the Project as determined by Administrative Agent for a period of eighteen (18) months. The amount of such business interruption insurance shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross revenue (less non-continuing expenses) from the Project for the succeeding eighteen (18) month period. All business interruption proceeds shall be held by Administrative Agent and shall be applied to the Obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its Obligations to pay Debt Service on the Payment Dates set forth herein, except to the extent such amounts are actually paid out of the proceeds of such business interruption insurance.

(b) **Liability.** Borrower shall maintain (i) commercial general liability insurance (with no exclusion for acts of domestic and foreign terrorism) with respect to the Project for both personal injury, bodily injury to or death of a person and for property damage providing for limits of liability in the amount approved by Administrative Agent but in no event less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, (ii) umbrella liability coverage in the amount and to the extent required by Administrative Agent on terms consistent with the general liability insurance required hereinabove, and (iii) other liability insurance as reasonably required by Administrative Agent, including but limited to auto liability or worker's compensation and employer's liability covering employees of Borrower. In addition, Borrower shall cause each Operator, if applicable, to maintain (A) worker's compensation insurance and employer's liability insurance covering employees at the Project employed by such Operator (in the amounts required by applicable Requirements of Law) and (B) professional liability insurance. In no event shall Borrower consent to any decrease in the amount or scope of coverage or increase the deductibles from those previously approved by Administrative Agent.

(c) **Construction, Repairs, Alterations.** At all times during which structural construction, repairs or alterations are being made with respect to the Improvements, and only if the property or liability coverage forms do not otherwise apply, (A) commercial general liability and umbrella liability insurance covering claims related to the construction, repairs or alterations being made which are not covered by or under the terms or provisions of the commercial general liability and umbrella liability insurance policy required in Section 3.1(b); and (B) the insurance provided for in Section 3.1(a) written in a so-called builder's risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to Section 3.1(a), and (3) including permission to occupy the Project.

(d) **Form and Quality.** All insurance policies shall be obtained under valid and enforceable policies and shall be subject to the approval of Administrative Agent as to form and substance, including insurance companies, amounts, deductibles, loss payees and insureds. Such policies shall be endorsed in form and substance acceptable to Administrative Agent to name Administrative Agent (on behalf of the Lenders) thereunder as an additional insured, as its interest may appear, on liability insurance policies and as mortgagee/lender's loss payable, as its interest may appear, on all property insurance policies, including but not limited to special form/all-risk, business interruption, boiler and machinery, terrorism, windstorm, flood and earthquake insurance, with all loss payable to Administrative Agent, without contribution, under a standard non-contributory mortgagee clause. No policy shall contain a Protective Safeguard Endorsement. Administrative Agent shall act on behalf of the Lenders in respect of insurance matters. The proceeds of insurance paid on account of any damage or destruction to the Project shall be paid to Administrative Agent, on behalf of the Lenders, to be applied as provided in Section 3.2. In the event Borrower, Master Lessee or Property Manager receives any insurance proceeds (without the same having been disbursed to Administrative Agent), Borrower or Master Lessee will or will cause Property Manager to immediately return such proceeds to Administrative Agent for application in accordance with the provisions of Section 3.2. All such insurance policies and endorsements shall be fully paid for and contain such provisions and expiration dates and be in such form acceptable to Administrative Agent and issued by such insurance companies authorized to do business in the state in which the Project is located, with a rating of "A-X" or better as established by Best's Rating Guide or "A-" or better by Standard & Poor's Ratings Group. Each property insurance policy shall provide that such policy may not be canceled except upon thirty (30) days' prior written notice (except ten (10) days' prior notice for non-renewal or cancellation due to non-payment of premium) to Administrative Agent and that no act or negligence of Borrower, or any other insured under the policy, or failure to comply with the provisions of any Policy which might otherwise result in a forfeiture of the insurance or any part thereof, or commencement of foreclosure or similar action, shall in any way affect the validity or enforceability of the insurance insofar as Administrative Agent is concerned. If available using commercially reasonable efforts, each liability insurance policy shall provide that such policy may not be canceled except upon thirty (30) days' prior written notice (except ten (10) days' prior notice for non-renewal or cancellation due to non-payment of premium) to Administrative Agent (provided that, if the insurer will not or cannot provide the required notice, Borrower or Master Lessee shall be obligated to provide such notice). Blanket policies shall be permitted only if (i) any such policy shall in all other respects comply with the requirements of this Section and (ii) such policy is approved in advance in writing by Administrative Agent and such policy includes changes to the coverages and requirements set forth herein as may be required by Administrative Agent (including, without limitation, increases to the amount of coverages required herein). Notwithstanding Administrative Agent's approval of any blanket policy hereunder, Administrative Agent reserves the right, in its sole discretion, to require Borrower to obtain a separate policy in compliance with this Section 3.1. Borrower authorizes Administrative Agent to pay the premiums for such policies (the "**Insurance Premiums**") from the Insurance Impound as the same become due and payable annually in advance. If Borrower fails to deposit funds into the Insurance Impound sufficient to permit Administrative Agent to pay the Insurance Premiums when due, Administrative Agent may obtain such insurance and pay the premium therefor and Borrower shall, on demand, reimburse Administrative Agent for all expenses incurred in connection therewith. Borrower shall not maintain any separate or additional insurance which is contributing

in the event of loss unless it is properly endorsed and otherwise reasonably satisfactory to Administrative Agent in all respects. Notwithstanding the foregoing, Borrower shall be permitted to pay premiums on installments to the insurance company or the insurance agent/broker.

(e) **Assignment; Delivery of Certificates and Policies.** Borrower shall assign the policies and all proceeds payable thereunder or proofs of insurance to Administrative Agent (for the benefit of the Lenders), in such manner and form that Administrative Agent and its successors and assigns shall at all times have and hold the same as security for the payment of the Loan. In the event of a foreclosure of the Mortgage or other transfer of title to the Project in extinguishment in whole or in part of the Obligations, all right, title and interest of Borrower in and to the policies then in force concerning the Project and all proceeds payable thereunder shall thereupon vest exclusively in Administrative Agent or the purchaser at such foreclosure or other transferee in the event of such other transfer of title. Unless otherwise approved by Administrative Agent, with respect to the property insurance required under this Section 3.1, Borrower shall provide (i) on or before the Closing Date, an ACORD 27 or 28 along with a policy binder which is valid for at least 60 days following the Effective Date or a complete copy of the policy, (ii) endorsements required by Administrative Agent within thirty (30) days following the Closing Date if not provided on or before the Closing Date and (iii) a copy of the full policy within sixty (60) days following the Closing Date or prior to expiration of the binder. Unless otherwise approved by Administrative Agent, with respect to the liability insurance required under this Section 3.1, Borrower shall provide (i) on or before the Closing Date, an ACORD 25 along with evidence of 30-day notice of cancellation of coverage along with a policy binder which is valid for at least 60 days following the Effective Date or a complete copy of the policy, (ii) endorsements required by Administrative Agent within thirty (30) days following the Closing Date if not provided on or before the Closing Date and (c) a copy of the full policy within sixty (60) days following the Closing Date. If Borrower elects to obtain any insurance which is not required under this Agreement, all related insurance policies shall be endorsed in compliance with Section 3.1(d), and such additional insurance shall not be canceled without prior notice to Administrative Agent. From time to time upon Administrative Agent's request, Borrower shall identify to Administrative Agent all insurance maintained by Borrower with respect to the Project. The proceeds of insurance policies coming into the possession of Administrative Agent shall not be deemed trust funds, and Administrative Agent shall be entitled to apply such proceeds as herein provided.

(f) **Adjustments.** Borrower shall give immediate written notice of any loss to the insurance carrier and to Administrative Agent. Borrower hereby irrevocably authorizes and empowers Administrative Agent, as attorney in fact for Borrower coupled with an interest, to (i) notify any of Borrower's insurance carriers to add Administrative Agent (for itself and the benefit of the Lenders) as a loss payee, mortgagee insured or additional insured, as the case may be, to any policy maintained by Borrower (regardless of whether such policy is required under this Agreement), (ii) if such loss exceeds the Restoration Threshold, make proof of loss, adjust and compromise any claim under insurance policies, and appear in and prosecute any action arising from such insurance policies, and (iii) collect and receive insurance proceeds, and to deduct therefrom Administrative Agent's reasonable expenses incurred in the collection of such proceeds. Nothing contained in this Section 3.1(f), however, shall require Administrative Agent to incur any expense or take any action hereunder.

(g) **WARNING REGARDING RIGHT OF ADMINISTRATIVE AGENT TO PURCHASE INSURANCE:** IF BORROWER FAILS TO PROVIDE ADMINISTRATIVE AGENT WITH EVIDENCE OF THE INSURANCE COVERAGES REQUIRED BY THIS AGREEMENT, ADMINISTRATIVE AGENT SHALL HAVE THE RIGHT TO TAKE SUCH ACTION DEEMED NECESSARY TO PROTECT THE INTEREST OF ADMINISTRATIVE AGENT AND LENDERS, INCLUDING, WITHOUT LIMITATION, THE PURCHASING OF INSURANCE AT BORROWER'S EXPENSE AS ADMINISTRATIVE AGENT IN ITS SOLE DISCRETION DEEMS APPROPRIATE. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT BORROWER'S INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE ADMINISTRATIVE AGENT PURCHASES MAY NOT PAY ANY CLAIM BORROWER MAKES OR ANY CLAIM MADE AGAINST BORROWER. BORROWER IS RESPONSIBLE FOR ALL EXPENSES INCURRED BY ADMINISTRATIVE AGENT IN CONNECTION WITH SUCH ACTION AND THE COST OF ANY INSURANCE PURCHASED PURSUANT TO THIS PROVISION AND SUCH COST IS PAYABLE ON DEMAND; IF BORROWER FAILS TO PAY SUCH COST, IT MAY BE ADDED TO THE INDEBTEDNESS AND BEAR INTEREST AT THE DEFAULT RATE. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE BORROWER'S PRIOR COVERAGE LAPSED OR THE DATE BORROWER FAILED TO PROVIDE PROOF OF COVERAGE. THE COVERAGE ADMINISTRATIVE AGENT PURCHASES MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE BORROWER CAN OBTAIN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE IMPOSED BY REQUIREMENTS OF LAW. AFTER RECEIVING WRITTEN CONSENT FROM ADMINISTRATIVE AGENT, BORROWER MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT THE REQUIRED PROPERTY COVERAGE WAS PURCHASED ELSEWHERE. THIS NOTICE IS PROVIDED PURSUANT TO PARAGRAPH (3) OF 815 ILCS 180/10.

(h) **Intentionally Omitted.**

(i) **Non-Conforming Policy.** As an alternative to the policies required to be maintained pursuant to the preceding provisions of this Section 3.1, Borrower will not be in default under this Section 3.1 if Borrower maintains (or causes to be maintained) policies which (i) have coverages, deductibles or other related provisions other than those specified above or (ii) are provided by insurance companies not meeting the credit ratings requirements set forth above (any such policy, a "**Non-Conforming Policy**"), provided, that, prior to obtaining such Non-Conforming Policies (or permitting such Non-Conforming Policies to be obtained), Borrower shall have received Administrative Agent's prior written consent thereto. Notwithstanding the foregoing, Administrative Agent hereby reserves the right to deny its consent to any Non-Conforming Policy regardless of whether or not Administrative Agent has consented to the same on any prior occasion.

Section 3.2 **Use and Application of Insurance Proceeds.**

(a) **Notice; Repair Obligation.** If the Project shall be damaged or destroyed, in whole or in part, by fire or other casualty (a "**Casualty**"), Borrower shall give prompt written notice

thereof to Administrative Agent. Following the occurrence of a Casualty, provided Administrative Agent makes insurance proceeds available to Borrower, Borrower shall promptly proceed to restore, repair, replace or rebuild the same to be of at least equal value and of substantially the same character as prior to such damage or destruction, all to be effected in accordance with applicable Requirements of Law. If Administrative Agent does not make insurance proceeds available to Borrower, Borrower, at Borrower's expense, shall promptly proceed to remove any debris and secure the Project.

(b) **Application of Insurance Proceeds.** Subject to any applicable provisions of the Ground Lease and Recognition Agreement, Administrative Agent shall make insurance proceeds available to Borrower for application to the costs of restoring the Project or to the payment of the Loan as follows:

(i) if the loss is less than or equal to the Restoration Threshold, Administrative Agent shall make the insurance proceeds available to Borrower, which proceeds shall be used by Borrower to pay for the restoration of the Project provided (A) no Event of Default or Potential Default exists, and (B) Borrower promptly commences and is diligently pursuing restoration of the Project;

(ii) if the loss exceeds the Restoration Threshold but is not more than 25% of the replacement value of the Improvements, Administrative Agent shall disburse the insurance proceeds to Borrower, which proceeds shall be used by Borrower for the restoration of the Project provided that (A) at all times during such restoration no Event of Default or Potential Default exists; (B) Administrative Agent determines throughout the restoration that there are sufficient funds available to restore and repair the Project to a condition existing immediately prior to such Casualty or, if Administrative Agent reasonably determines there is any such insufficiency, Borrower provides additional security to address such insufficiency to Administrative Agent's satisfaction; (C) Administrative Agent determines that the Adjusted Net Operating Income of the Project during restoration, taking into account rent loss or business interruption insurance, will be sufficient to pay Debt Service; (D) Administrative Agent determines that the ratio of the outstanding principal balance of the Loan to appraised value of the Project after restoration of the Project will not exceed the loan-to-value ratio that existed on the Closing Date; (E) Administrative Agent determines that after restoration of the Project, the Debt Service Coverage Ratio will be at least 1.25:1.00 and the Project Yield will be at least equal to the Cash Sweep Threshold plus 0.75%; (F) Administrative Agent determines that restoration and repair of the Project to a condition approved by Administrative Agent will be completed within six (6) months after the date of loss or casualty and in any event ninety (90) days prior to the Maturity Date; (G) Borrower promptly commences and is diligently pursuing restoration of the Project; and (H) the Project after the restoration will be in compliance with and permitted under all Requirements of Law; and

(iii) if the conditions set forth in (i) and (ii) above are not satisfied or the loss exceeds the maximum amount specified in Section 3.2(b)(ii) above, (A) if no Event of Default exists hereunder, Administrative Agent may elect to apply any insurance proceeds Administrative Agent receives as a prepayment of the Loan, or allow all or a portion of such proceeds to be used for the restoration of the Project and (B) if an Event of Default

exists hereunder, Administrative Agent shall apply any insurance proceeds Administrative Agent receives as a prepayment of the Loan, unless the Required Lenders otherwise consent in writing to allow all or a portion of the proceeds to be used for the restoration of the Project.

(c) **Disbursement of Insurance Proceeds.** Provided that Borrower is diligently pursuing completion of the restoration of the Project, insurance proceeds received by Administrative Agent and to be applied to restoration pursuant to the terms of this Section 3.2, will be disbursed by Administrative Agent to Borrower on a monthly basis, commencing within ten (10) Business Days following receipt by Administrative Agent of plans and specifications, contracts and subcontracts, schedules, budgets, lien waivers and architects' certificates all in form reasonably satisfactory to Administrative Agent, and otherwise in accordance with prudent commercial construction lending practices for construction loan advances (including appropriate retainages to ensure that all work is completed in a workmanlike manner). Any insurance proceeds remaining after payment of all restoration costs shall be applied by Administrative Agent to the balance of the Loan or, at Administrative Agent's sole option, remitted to Borrower.

Section 3.3 Condemnation Awards. Borrower shall promptly give Administrative Agent written notice of the actual or threatened commencement of any condemnation or eminent domain proceeding affecting the Project (a "**Condemnation**") and shall deliver to Administrative Agent copies of any and all papers served in connection with such Condemnation. Following the occurrence of a Condemnation, Borrower, regardless of whether any award or compensation (an "**Award**") is available, shall promptly proceed to restore, repair, replace or rebuild the same to the extent practicable to be of at least equal value and of substantially the same character as prior to such Condemnation, all to be effected in accordance with all Requirements of Law. Administrative Agent may participate in any such proceeding (for itself and on behalf of the Lenders) and Borrower will deliver to Administrative Agent all instruments necessary or required by Administrative Agent to permit such participation. Without Administrative Agent's prior consent, Borrower (a) shall not agree to any Award, and (b) shall not take any action or fail to take any action which would cause the Award to be determined. All Awards for the taking or purchase in lieu of condemnation of the Project or any part thereof are hereby assigned to and shall be paid to Administrative Agent to be held and disbursed or applied as hereinafter provided. Administrative Agent is hereby irrevocably appointed as Borrower's attorney-in-fact, coupled with an interest, with exclusive power to collect, receive and retain any Award and to make any compromise or settlement in connection with any such Condemnation and to give proper receipts and acquittances therefor, and in Administrative Agent's sole discretion (in consultation with the Required Lenders and subject to the terms of the Ground Lease) to apply the same toward the payment of the Loan, notwithstanding that the Loan may not then be due and payable, or to the restoration of the Project, subject to the same procedures and conditions as set forth in Section 3.2(b) and Section 3.2(c) applicable to insurance proceeds; provided, however, if the Award is less than or equal to \$250,000 and Borrower requests that such proceeds be used for nonstructural site improvements (such as landscape, driveway, walkway and parking area repairs) required to be made as a result of such Condemnation, Administrative Agent will apply the Award to such restoration in accordance with disbursement procedures applicable to insurance proceeds provided there exists no Potential Default or Event of Default. Borrower, upon request by Administrative Agent, shall execute all instruments requested to confirm the assignment of the Awards to Administrative Agent, free and clear of all liens, charges or encumbrances. Anything herein to the

contrary notwithstanding, if a Potential Default or Event of Default exists, Administrative Agent is authorized to adjust such Award without the consent of Borrower and to collect such Award in the name of Administrative Agent (on behalf of itself and the Lenders) and Borrower.

Section 3.4 Insurance Impounds. Borrower shall deposit with Administrative Agent, monthly on each Payment Date, a sum of money (the “**Insurance Impound**”) equal to one-twelfth (1/12th) of the annual charges for the Insurance Premiums. At or before the initial advance of the Loan, Borrower shall deposit with Administrative Agent a sum of money which together with the monthly installments will be sufficient to make each of such payments thirty (30) days prior to the date any delinquency or penalty becomes due with respect to such payments. Deposits shall be made on the basis of Administrative Agent’s estimate from time to time of the Insurance Premiums for the current year. All funds so deposited shall be held without interest in Administrative Agent’s name and shall not be deemed to be held in trust for the benefit of Borrower. All funds so deposited may be commingled with the general funds of Administrative Agent. Borrower hereby grants to Administrative Agent (for its benefit and the benefit of the Lenders) a security interest in all funds so deposited with Administrative Agent for the purpose of securing the Loan. Until an Event of Default exists, Administrative Agent shall apply the funds deposited to pay Insurance Premiums as provided herein. While an Event of Default exists, the funds deposited may be applied in payment of the Insurance Premiums for which such funds have been deposited, or to the payment of the Loan or any other charges affecting the security of Administrative Agent, as Administrative Agent may elect, but no such application shall be deemed to have been made by operation of law or otherwise until actually made by Administrative Agent. Borrower shall furnish Administrative Agent with bills for the Insurance Premiums for which such deposits are required at least thirty (30) days prior to the date on which the Insurance Premiums first become payable. If at any time the amount on deposit with Administrative Agent, together with amounts to be deposited by Borrower before such Insurance Premiums are payable, is insufficient to pay such Insurance Premiums, Borrower shall deposit any deficiency with Administrative Agent immediately upon demand. Administrative Agent shall pay such Insurance Premiums when the amount on deposit with Administrative Agent is sufficient to pay such Insurance Premiums and Administrative Agent has received a bill for such Insurance Premiums. On the Maturity Date, the monies then remaining on deposit with Administrative Agent under this Section 3.4 shall, at Administrative Agent’s option, be applied against the Indebtedness or if no Event of Default exists hereunder, returned to Borrower. Notwithstanding anything to the contrary contained in this Agreement (except as set forth in the following sentence), the Insurance Impound shall be waived so long as (i) an Event of Default has not occurred and (ii) Borrower provides to Administrative Agent, at least thirty (30) days prior to the date any delinquency or penalty becomes due with respect to Insurance Premiums, evidence reasonably acceptable to Administrative Agent that the Insurance Premiums which have become due have been paid in full.

Section 3.5 Real Estate Tax Impounds. Borrower shall deposit with Administrative Agent, monthly on each Payment Date, a sum of money (the “**Tax Impound**”) equal to one-twelfth (1/12th) of the annual Taxes. At or before the initial advance of the Loan, Borrower shall deposit with Administrative Agent a sum of money which together with the monthly installments will be sufficient to make each of such payments thirty (30) days prior to the date any delinquency or penalty becomes due with respect to such payments. Deposits shall be made on the basis of Administrative Agent’s estimate from time to time of the Taxes for the current year (after giving effect to any reassessment or, at Administrative Agent’s election, on the basis of the Taxes for the

prior year, with adjustments when the Taxes are fixed for the then current year). All funds so deposited shall be held without interest in Administrative Agent's name and shall not be deemed to be held in trust for the benefit of Borrower. All funds so deposited may be commingled with the general funds of Administrative Agent. Borrower hereby grants to Administrative Agent (for its benefit and the benefit of the Lenders) a security interest in all funds so deposited with Administrative Agent for the purpose of securing the Loan. Until an Event of Default exists, Administrative Agent shall apply the funds deposited to pay the Taxes as provided herein. While an Event of Default exists, the funds deposited may be applied in payment of the charges for which such funds have been deposited, or to the payment of the Loan or any other charges affecting the security of Administrative Agent, as Administrative Agent may elect, but no such application shall be deemed to have been made by operation of law or otherwise until actually made by Administrative Agent. Borrower shall furnish Administrative Agent with bills for the Taxes for which such deposits are required at least thirty (30) days prior to the date on which the Taxes first become payable. If at any time the amount on deposit with Administrative Agent, together with amounts to be deposited by Borrower before such Taxes are payable, is insufficient to pay such Taxes, Borrower shall deposit any deficiency with Administrative Agent immediately upon demand. Administrative Agent shall pay such Taxes when the amount on deposit with Administrative Agent is sufficient to pay such Taxes and Administrative Agent has received a bill for such Taxes. The obligation of Borrower to pay the Taxes, as set forth in the Loan Documents, is not affected or modified by the provision of this paragraph; provided, however, that Borrower shall not be in default under the Loan for failure to pay Taxes if and to the extent there are sufficient funds on deposit in the Tax Impound to timely pay such Taxes. On the Maturity Date, the monies then remaining on deposit with Administrative Agent under this Section 3.5 shall, at Administrative Agent's option, be applied against the Indebtedness or if no Event of Default exists hereunder, returned to Borrower. Notwithstanding anything to the contrary contained in this Agreement, the Tax Impound shall be waived so long as (i) an Event of Default has not occurred and (ii) Borrower provides to Administrative Agent, on or before the date of delinquency, evidence reasonably acceptable to Administrative Agent that all Taxes which have become due have been paid in full.

ARTICLE 4

LEASING MATTERS

Section 4.1 Representations and Warranties on Leases.

(a) Master Lessee represent and warrant to Administrative Agent and Lenders with respect to the Leases that, (i) the rent roll delivered to Administrative Agent with respect to such Leases is true and correct; (ii) such Leases are in full force and effect; (iii) the Leases (including amendments) are in writing, and there are no oral agreements with respect thereto; (iv) the copies of the Leases delivered to Administrative Agent are true and complete; (v) neither the landlord nor any tenant is in default under any of the Leases; (vi) Master Lessee has no knowledge of any notice of termination or default with respect to any Lease; (vii) Master Lessee has not assigned or pledged any of the Leases, the rents or any interests therein except to Administrative Agent and the Lenders; (viii) except as provided in the Master Lease, the Ground Lease or in the Mezzanine Loan Documents, no Tenant or other party has an option to purchase all or any portion of the Project; (ix) other than as expressly stated in its Lease, no Tenant has the right to terminate its Lease prior to expiration of the stated term of such Lease; (x) no Tenant has prepaid more than one month's

rent in advance (except for bona fide security deposits not in excess of an amount equal to two months' rent); and (xi) unless expressly stated to the contrary in an existing Lease for which a Subordination, Nondisturbance and Attornment Agreement has not been entered into with respect to such Lease, all existing Leases are subordinate to the Mortgage either pursuant to their terms or a written subordination agreement.

(b) LCRA and Master Lessee represents and warrants to Administrative Agent and the Lenders that: (i) the Master Lease is valid and in and full force and effect; (ii) the Master Lease is in writing, and there are no oral agreements with respect thereto; (iii) the copy of the Master Lease delivered to Administrative Agent is true and complete; (iv) neither LCRA nor Master Lessee is in default under the Master Lease; (v) neither LCRA nor Master Lessee have any knowledge of any notice of termination or default with respect to the Master Lease; (vi) neither LCRA nor Master Lessee has assigned or pledged the Master Lease, the rents or any interests therein except to Administrative Agent and the Lenders; (vii) except as specifically provided in Section 17.1 of the Master Lease, no Tenant or other party has an option to purchase all or any portion of the Project except as provided in the Ground Lease and in the Mezzanine Loan Documents; and (viii) except as specifically provided in Section 17.2 of the Master Lease, there are no options or rights to terminate the Master Lease prior to expiration of its stated term.

Section 4.2 Standard Lease Form; Approval Rights. All Leases and other rental arrangements shall in all respects be approved by Administrative Agent and shall be on a standard lease form approved by Administrative Agent with no material modifications (except as approved by Administrative Agent, which approval will not be unreasonably withheld or delayed). Such lease form shall provide that (a) the lease is subordinate to the Mortgage, (b) the tenant shall attorn to Administrative Agent, and (c) that any cancellation, surrender, or amendment of such lease without the prior written consent of Administrative Agent shall be voidable by Administrative Agent. To the extent required by Requirements of Law, Master Lessee shall hold all tenant security deposits in a segregated account and shall not commingle any such funds with any other funds of Master Lessee. Within ten (10) days after Administrative Agent's request, Master Lessee shall furnish to Administrative Agent a statement of all tenant security deposits, and copies of all Leases not previously delivered to Administrative Agent, certified by Master Lessee as being true and correct. Notwithstanding anything contained in the Loan Documents, provided no Event of Default exists, Master Lessee shall have the right to enter into Leases without Administrative Agent's consent provided (i) the economic terms of the Lease conform to those of the market, (ii) the leased premises are not in excess of 10% of the rentable square feet of the Project and the Lease represents less than 10% of the revenue of the Project (the parameters in this clause (ii) being the "**Lease Threshold Parameters**"), (iii) the Lease is in the form previously approved by Administrative Agent without material modification; (iv) the tenant is (x) a physician or physician group or (y) another type of healthcare related tenant consistent with the operation of a medical office building; (v) the Lease and the tenant thereunder comply with the requirements of the Ground Lease; (vi) if required under the terms of the Ground Lease, Administrative Agent shall have received evidence of written approval of the Lease by Ground Lessor; and (vii) the tenant is a Qualified Tenant.

Section 4.3 Covenants.

(a) Master Lessee shall (or cause Operators to) (i) perform the obligations which any Lease Party is required to perform under the Leases; (ii) enforce the obligations to be performed by the Tenants under the Leases; (iii) promptly furnish to Administrative Agent any notice of default or termination received by Master Lessee from any Tenant under a Lease, and any notice of default or termination given by Master Lessee to any Tenant; (iv) not collect any rents for more than one month in advance of the time when the same shall become due, except for bona fide Security Deposits not in excess of an amount equal to two month's rent; (v) not enter into any ground lease or master lease of any part of the Project other than the Ground Lease and the Master Lease; (vi) not further assign or encumber any Lease; (vii) not, except with Administrative Agent's prior written consent, cancel or accept surrender or termination of any Lease; (viii) not, except with Administrative Agent's prior written consent, modify or amend any Lease or guaranty thereof (except for minor modifications and amendments entered into in the ordinary course of business, consistent with prudent property management practices, not affecting the economic terms of the Lease or guaranty thereof); (ix) assign to Administrative Agent any letter of credit evidencing a security deposit on such terms as may be required by Administrative Agent and shall deliver the original of such letter(s) of credit to Administrative Agent; and (x) not, except with Administrative Agent's consent, consent to an assignment or subletting of any Lease by the Tenant thereunder unless the Lease satisfies the Lease Threshold Parameters. Any action in violation of clauses (v), (vi), (vii), and (viii) of this Section 4.3 shall be void at the election of Administrative Agent. Master Lessee and Operators, as applicable, will not suffer or permit any breach or default to occur in any of any Lease Party's obligations under any of the Leases, nor suffer or permit the same to terminate by reason of any failure of Lease Party to meet any requirement of any Lease. Notwithstanding the foregoing, without the prior written consent of Administrative Agent and the Required Lenders, Master Lessee shall (x) cancel or accept a surrender or termination of any Major Lease, (y) consent to an assignment or subletting of any Major Lease where landlord's consent is required under the terms of any Major Lease, or (z) modify any Consent Required Provision of any Major Lease.

(b) LCRA and Master Lessee shall (i) perform the obligations under the Master Lease in all material respects; (ii) enforce the obligations to be performed under the Master Lease in all material respects; (iii) not further assign or encumber the Master Lease; (iv) not, except with Administrative Agent's prior written consent, cancel or accept surrender or termination of the Master Lease other than in connection with a LCRA Termination Right; and (v) not, except with Administrative Agent's prior written consent, modify or amend the Master Lease. Any action in violation of clauses (iii), (iv) or (v) of this Section 4.3(b) shall be void at the election of Administrative Agent.

Section 4.4 Tenant Estoppels. At Administrative Agent's request, Master Lessee shall obtain and furnish (or cause Operator to obtain and furnish) to Administrative Agent, written estoppels in form and substance reasonably satisfactory to Administrative Agent, executed by Tenants under Leases in excess of 3,000] square feet of the Project and confirming the term, rent, and other provisions and matters relating to such Leases.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

Borrower represents, warrants and covenants to Administrative Agent and Lenders unless otherwise specified, as of the Closing Date and as of the date of each Compliance Certificate delivered to Administrative Agent pursuant to Section 6.2 hereof that (provided, however, LCRA makes no representations or warranties with respect to any Borrower Party other than LCRA or any property of LCRA other than the Project):

Section 5.1 **Organization, Power and Authority; Formation Documents.**

(a) **Organization, etc.** Borrower and each other Borrower Party is duly organized, validly existing and in good standing under the laws of the state of its formation or existence and is in compliance with all Requirements of Law applicable to doing business in the state in which the Project is located. Borrower is not a “foreign person” within the meaning of §1445(f)(3) of the Code. Borrower and each other Borrower Party has only one state of incorporation or organization which is set forth in Schedule 5.1. All other information regarding Borrower and each other Borrower Party contained in Schedule 5.1, including the ownership structure of Borrower and its constituent entities, is true and correct as of the Closing Date.

(b) **Formation Documents.** LCRA was formed by adoption of Committee Substitute for Ordinance No. 16120, duly passed by the City Council of the City of Kansas City, Missouri on November 21, 1952 pursuant to the Land Clearance for Redevelopment Authority Law, Section 99.300, et seq., of the Revised Statutes of Missouri. A true and complete copy of the formation documents creating Borrower and each other Borrower Party and any and all amendments thereto (collectively, the “**Borrower Formation Documents**”) has been furnished to Administrative Agent. The Borrower Formation Documents constitute the entire agreement governing the formation and existence of each Borrower Party (other than LCRA) among the members of Borrower or such other Borrower Party and are binding upon and enforceable against each of the members in accordance with their terms. No breach exists under the Borrower Formation Documents and no condition exists which, with the giving of notice or the passage of time, would constitute a breach under the Borrower Formation Documents.

(c) **Proceedings; Enforceability.** Borrower has taken all necessary action to authorize the execution, delivery and performance of the Loan Documents to which LCRA is a party. The Loan Documents to which LCRA is a party have been duly executed and delivered by Borrower and constitute legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms, subject to applicable bankruptcy, insolvency and similar laws affecting rights of creditors generally, and general principles of equity and subject at all times LCRA is “Borrower” hereunder to the non-recourse provisions of Section 12.3. The Loan Documents to which LCRA is a party are not subject to, and Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury. No exercise of any of the terms of the Loan Documents to which LCRA is a party, or any right thereunder, will render any Loan Document unenforceable.

(d) **No Conflicts.** The execution, delivery and performance of the Loan Documents to which LCRA is a party by Borrower and the transactions contemplated hereby will not conflict

with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any Lien (other than pursuant to the Loan Documents to which LCRA is a party) upon the Project pursuant to the terms of, any agreement or instrument to which Borrower is a party or by which the Project is subject, nor will such action result in any violation of the provisions of any statute or any order, rule or regulation of any Governmental Authority having jurisdiction over Borrower or the Project. Any consent, approval, authorization, order, registration or qualification of or with any Governmental Authority required for the execution, delivery and performance by Borrower of the Loan Documents to which LCRA is a party has been obtained and is in full force and effect.

Section 5.2 Validity of Loan Documents. The execution, delivery and performance by each Borrower Party of the Loan Documents and the Environmental Indemnity Agreement to which they are a party: (a) are duly authorized and do not require the consent or approval of any other party or Governmental Authority which has not been obtained; and (b) will not violate any law or result in the imposition of any Lien upon the assets of any such party, except as contemplated by the Loan Documents or the Environmental Indemnity Agreement. The Loan Documents or the Environmental Indemnity Agreement constitute the legal, valid and binding obligations of Borrower and each other Borrower Party who is a party to such Loan Documents or the Environmental Indemnity Agreement, enforceable in accordance with their respective terms, subject to applicable bankruptcy, insolvency, or similar laws generally affecting the enforcement of creditors' rights. Notwithstanding the foregoing, LCRA is not a party to the Environmental Indemnity Agreement and makes no representation under this Section 5.2 as to the validity or enforceability of the Environmental Indemnity Agreement or to any of the Loan Documents to which LCRA is not a party.

Section 5.3 Liabilities; Litigation.

(a) **Financial Statements.** The financial statements delivered by each Borrower Party are true and correct as of the date prepared with no significant change since the date of preparation. Except as disclosed in such financial statements, there are no liabilities (fixed or contingent) affecting the Project, Borrower (as to the Project) or any other Borrower Party. Except as disclosed in such financial statements, there is no litigation, administrative proceeding, investigation or other legal action (including any proceeding under any state or federal bankruptcy or insolvency law) pending or, to the knowledge of Borrower and of any other Borrower Party, threatened, against the Project, Borrower (as to the Project) or any other Borrower Party which if adversely determined could have a Material Adverse Effect on such Person, the Project or the Loan.

(b) **Contemplated Actions.** No Borrower Party is contemplating either the filing of a petition by it under state or federal bankruptcy or insolvency laws or the liquidation of all or a major portion of its assets or property, and no Borrower Party has knowledge of any Person contemplating the filing of any such petition against it.

(c) **Litigation.** There are no actions, suits or other proceedings at law or in equity by or before any Governmental Authority now pending or, to the knowledge of Borrower and of any other Borrower Party, threatened against or affecting Borrower (with respect to the Project), any other Borrower Party or the Project, which, if adversely determined, might materially adversely affect the condition (financial or otherwise) or business of Borrower or Master Lessee (including

the ability of Borrower or Master Lessee to carry out its obligations under the Loan Documents and the Environmental Indemnity Agreement), or the use, value, condition or ownership of the Project.

Section 5.4 **Taxes and Assessments**. There are no unpaid or outstanding real estate or other taxes or assessments on or against the Project or any part thereof, except general real estate taxes not due or payable. The Project is comprised of one or more parcels, each of which constitutes a separate tax lot and none of which constitutes a portion of any other tax lot. There are no pending or, to the knowledge of Borrower, proposed, special or other assessments for public improvements or otherwise affecting the Project, nor are there any contemplated improvements to the Project that may result in such special or other assessments.

Section 5.5 **Other Agreements Defaults**. No Borrower Party is a party to any agreement or instrument or subject to any court order, injunction, permit, or restriction which might adversely affect the Project or the business, operations, or condition (financial or otherwise) of Borrower, Master Lessee or any other Borrower Party. No Borrower Party is in violation of any agreement which violation could reasonably be expected to have a Material Adverse Effect. All representations, warranties and covenants of LCRA under this Section 5.5 are limited to the Project.

Section 5.6 **Compliance with Law**. Borrower, Master Lessee or each Operator have all requisite Permits necessary to own, lease and operate the Project and carry on its business, and, except as disclosed in the Survey, the Zoning Report or Property Condition Report delivered to Administrative Agent prior to the Closing Date, the Project is in compliance with all applicable Requirements of Law. The Project does not constitute, in whole or in part, a legally non-conforming use under applicable Requirements of Law. Neither the Project, Borrower, Master Lessee, any Guarantor or any Operator is in violation of any Healthcare Laws or the subject of a Healthcare Investigation.

Section 5.7 **Condemnation**. No condemnation has been commenced or, to Borrower's knowledge, is contemplated with respect to all or any portion of the Project or for the relocation of roadways providing access to the Project.

Section 5.8 **Access**. The Project has adequate rights of access to public ways and is served by adequate water, sewer, sanitary sewer and storm drain facilities. All public utilities necessary or convenient to the full use and enjoyment of the Project are located in the public right-of-way abutting the Project, and all such utilities are connected so as to serve the Project without passing over other property, except to the extent such other property is subject to a perpetual easement for such utility benefiting the Project. All roads necessary for the full utilization of the Project for its current purpose have been completed and dedicated to public use and accepted by all Governmental Authorities.

Section 5.9 **Location of Borrower; Trade Name**. Borrower's and Master Lessee's principal place of business and chief executive offices are located at the address stated in **Schedule 5.1** and, except as otherwise set forth in **Schedule 5.1**, Borrower and Master Lessee at all times has maintained its principal place of business and chief executive office at such location or at other

locations within the same state. Master Lessee does not use and will not use any trade name and has not done and will not do business under any name other than its actual name set forth herein.

Section 5.10 ERISA Employees.

(a) As of the Closing Date and throughout the term of the Loan, (i) Borrower is not nor will it be an “employee benefit plan” as defined in Section 3(3) of ERISA, which is subject to Part 4 of Subtitle B of Title I of ERISA, and (ii) the assets of Borrower do not and will not constitute “plan assets” of one or more such plans for purposes of Title I of ERISA, as determined under Section 3(42) of ERISA.

(b) As of the Closing Date and throughout the term of the Loan (i) Borrower is not nor will it be a “governmental plan” within the meaning of Section 3(3) of ERISA and (ii) transactions by or with Borrower are not and will not be subject to state statutes applicable to Borrower regulating investments of and fiduciary obligations with respect to governmental plans.

(c) Borrower has no employees.

Section 5.11 Use of Loan Proceeds. The proceeds of the Loan are intended and will be used for agricultural, business or commercial purposes and are not intended and will not be used for personal, family or household purposes. No proceeds of the Loan will be used for purchasing or acquiring any “margin stock” within the meaning of Regulations T, U or X of the Board of Governors of the Federal Reserve System. The Loan has been requested by Borrower at the request of Master Lessee and the proceeds of the Loan shall be utilized by Borrower and Master Lessee for Master Lessee’s own account.

Section 5.12 Forfeiture. There has not been committed by any Borrower Party or any Operator, any other person in occupancy of or involved with the operation or use of the Project any act or omission affording the federal government or any state or local government the right of forfeiture as against the Project or any part thereof or any monies paid in performance of Borrower’s obligations under any of the Loan Documents to which LCRA is a party (the “**Forfeiture Rights**”).

Section 5.13 Tax Filings. Each Borrower Party (other than LCRA) has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and have paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments payable by such Borrower Party, respectively. Each Borrower Party believes that its respective tax returns properly reflect the income and taxes of such Borrower Party for the periods covered thereby, subject only to reasonable adjustments required by the Internal Revenue Service or other applicable tax authority upon audit.

Section 5.14 Fraudulent Transfer. Borrower has not entered into the Loan, any Loan Document or the Environmental Indemnity Agreement with the actual intent to hinder, delay, or defraud any creditor, and Borrower has received reasonably equivalent value in exchange for its obligations under the Loan Documents and the Environmental Indemnity Agreement. Giving effect to the transactions contemplated by the Loan Documents and the Environmental Indemnity Agreement, the fair saleable value of Borrower’s assets exceeds and will, immediately following the execution and delivery of the Loan Documents and the Environmental Indemnity Agreement,

exceed Borrower's total probable liabilities, including subordinated, unliquidated, disputed and contingent 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 Closing Date and each advance of the proceeds of the Loan 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 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 5.15 Full and Accurate Disclosure; No Material Adverse Change.

(a) No statement of fact made by or on behalf of any Borrower Party in this Agreement, in any of the other Loan Documents or the Environmental Indemnity Agreement contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading, nor has there been any material adverse change in any condition, fact, circumstance or event that would make the financial statements, rent rolls, reports, certificates or other documents submitted in connection with the Loan inaccurate, incomplete or otherwise misleading in any material respect. There is no fact presently known to Borrower which has not been disclosed to Administrative Agent which could reasonably be expected to have a Material Adverse Effect. All information supplied by Borrower regarding any other Collateral is accurate and complete in all material respects. All evidence of Borrower's and each other Borrower Party's identity provided to Administrative Agent and Lenders is genuine, and all related information is accurate. Notwithstanding the foregoing, LCRA makes no representation under this Section 5.15(a) as to the Environmental Indemnity Agreement.

(b) As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

Section 5.16 Flood Zone. No portion of the Improvements comprising the Project is located in an area identified by the Secretary of Housing and Urban Development or any successor thereto as an area having special flood hazards pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Act of 1994, as amended, or any successor law, or, if located within any such area, Borrower has obtained and will maintain the insurance prescribed in Section 3.1 hereof.

Section 5.17 Single Purpose Entity/Separateness. Borrower represents, warrants and covenants, from and after the Closing Date for so long as any obligation under the Loan Documents remains outstanding, as follows (except that, at any time that LCRA is the "Borrower" hereunder, all references in this Section 5.17 to "Borrower" shall be deemed to be "Master Lessee"):

(a) **Limited Purpose.** The sole purpose conducted or promoted by Borrower is to engage in the following activities:

(i) to acquire, own, hold, lease, operate, manage, maintain, develop and improve the Project (or an undivided interest therein) and to contract for the operation, maintenance, management and development of the Project;

(ii) to enter into and perform its obligations under the Loan Documents and Environmental Indemnity Agreement;

(iii) to sell, transfer, service, convey, dispose of, pledge, assign, borrow money against, finance, refinance or otherwise deal with the Project to the extent permitted under the Loan Documents; and

(iv) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies organized under the laws of its jurisdiction of formation that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above mentioned purposes.

(b) **Limitations on Debt, Actions.** Notwithstanding anything to the contrary in the Loan Documents or in any other document governing the formation, management or operation of Borrower, Borrower shall not:

(i) guarantee any obligation of any Person, including any Affiliate of Borrower, or become obligated for the debts of any other Person or hold out its credit as being available to pay the obligations of any other Person;

(ii) engage, directly or indirectly, in any business other than as required or permitted to be performed under this Section 5.17;

(iii) incur, create or assume any Debt other than (A) the Loan, (B) unsecured trade payables and payables for other expenses and costs (including obligations for tenant improvement allowances and other tenant incentives contained in Leases and obligations of Borrower under the Master Lease, Ground Lease or Easement Agreement) incurred in the ordinary course of its business that are related to the ownership and operation of the Project and which shall (1) not exceed two percent (2%) of the outstanding balance of the Loan, (2) not be evidenced by a note, (3) be paid within sixty (60) days, and (4) otherwise expressly be permitted under the Loan Documents, and (C) a reimbursement obligation for any Special Letter of Credit delivered pursuant to Section 7.13;

(iv) 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 investment-grade securities;

(v) to the fullest extent permitted by law, engage in any dissolution, liquidation, consolidation, merger, sale or other transfer of any of its assets outside the ordinary course of Borrower's business;

(vi) buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities);

(vii) form, acquire or hold any subsidiary (whether corporate, partnership, limited liability company or other) or own any equity interest in any other entity;

(viii) own any asset or property other than the Project (or an undivided interest therein) and incidental personal property necessary for the ownership or operation of the Project;

(ix) enter into a Division Transaction; or

(x) take any Material Action without the unanimous written approval of all members and managers of Borrower.

(c) **Separateness Covenants.** In order to maintain its status as a separate entity and to avoid any confusion or potential consolidation with any Affiliate of Borrower, Borrower represents and warrants that in the conduct of its operations since its organization it has observed, and covenants that it will continue to observe, the following covenants:

(i) maintain books and records and bank accounts separate from those of any other Person;

(ii) maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets;

(iii) comply with all organizational formalities necessary to maintain its separate existence;

(iv) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;

(v) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other Person and not have its assets listed on any financial statement of any other Person; except that Borrower's assets may be included in a consolidated financial statement of its Affiliate so long as appropriate notation is made on such consolidated financial statements to indicate the separateness of Borrower from such Affiliate and to indicate that Borrower's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person;

(vi) other than with respect to the consolidated tax return of its Affiliates, prepare and file its own tax returns separate from those of any Person to the extent required by Requirements of Law, and pay any taxes required to be paid by Requirements of Law;

(vii) allocate and charge fairly and reasonably any common employee or overhead shared with Affiliates;

(viii) not enter into any transaction with any Person owned or controlled by an Affiliate of Borrower except on an arm's-length basis on terms which are intrinsically fair and no less favorable than would be available for unaffiliated third parties, and pursuant to written, enforceable agreements;

(ix) conduct business in its own name, and use separate stationery, invoices and checks;

- (x) not commingle its assets or funds with those of any other Person other than as required or permitted by this Agreement;
- (xi) not assume, guarantee or pay the debts or obligations of any other Person;
- (xii) correct any known misunderstanding as to its separate identity;
- (xiii) not permit any Affiliate of Borrower to guarantee or pay its obligations (other than limited guarantees and indemnities set forth in the Loan Documents and in the Environmental Indemnity Agreement);
- (xiv) not make loans or advances to any other Person;
- (xv) pay its liabilities and expenses out of and to the extent of its own funds; provided, however, that the foregoing shall not require any equity owner to make additional capital contributions to Borrower;
- (xvi) maintain a sufficient number of employees in light of its contemplated business purpose and pay the salaries of its own employees, if any, only from its own funds; provided, however, that the foregoing shall not require any equity owner to make additional capital contributions to Borrower;
- (xvii) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities; provided, however, that the foregoing shall not require any equity owner to make additional capital contributions to Borrower;
- (xviii) cause the managers, officers, employees, agents and other representatives of Borrower to act at all times with respect to Borrower consistently and in furtherance of the foregoing and in the best interests of Borrower;
- (xix) not have any obligation to, and will not, indemnify its partners, officers, directors or members, as the case may be, unless such an obligation is fully subordinated to the Indebtedness and will not constitute a claim against it in the event that cash flow in excess of the amount required to pay the Indebtedness is insufficient to pay such obligation; and
- (xx) not pledge its assets for the benefit of any other Person other than to Administrative Agent and Lenders in connection with the Loan.

Failure of Borrower to comply with any of the foregoing covenants or any other covenants contained in this Agreement shall not affect the status of Borrower as a separate legal entity.

Section 5.18 Anti-Money Laundering/International Trade Law Compliance; Patriot Act.

(a) No Covered Entity (i) is a Sanctioned Person; (ii) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person; or (iii) does business in or with, or derives any of its operating income from investments in or transactions

with, any Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority.

(b) The proceeds of the Loan will not be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority.

(c) The funds used to repay the Loan are not derived from any unlawful activity.

(d) Each Covered Entity is in compliance with, and no Covered Entity engages in any dealings or transactions prohibited by, any laws of the United States, including but not limited to any Anti-Terrorism Laws.

(e) Borrower covenants and agrees that it shall immediately notify Administrative Agent in writing upon the occurrence of a Reportable Compliance Event.

(f) As used herein: “Anti-Terrorism Laws” means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering, or bribery, all as amended, supplemented or replaced from time to time; “Compliance Authority” means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes Enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission; “**Covered Entity**” means Borrower, Master Lessee, their respective affiliates and subsidiaries, all guarantors, pledgors of collateral, all owners of the foregoing, and all brokers or other agents of Borrower or Master Lessee acting in any capacity in connection with the Loan; “Reportable Compliance Event” means that any Covered Entity becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law; “Sanctioned Country” means a country subject to a sanctions program maintained by any Compliance Authority; and “Sanctioned Person” means any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person or entity, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any order or directive of any Compliance Authority or otherwise subject to, or specially designated under, any sanctions program maintained by any Compliance Authority.

(g) No Borrower Party nor any partner in any Borrower Party or member of such partner nor any owner of a direct or indirect interest in any Borrower Party (i) is listed on any Government Lists, (ii) is a Prohibited Person, (iii) has been previously indicted for or convicted of any felony involving a crime or crimes of moral turpitude, or (iv) is currently under investigation by any Governmental Authority for alleged criminal activity.

Section 5.19 **Intentionally Omitted.**

Section 5.20 **Operators' Agreements**. A true, correct and complete copy of each of the Operators' Agreements, together with all amendments thereto, have been delivered to Administrative Agent; and the Operators' Agreements and all amendments thereto are in full force and effect as of the Closing Date.

Section 5.21 **Physical Condition**. Except as specifically set forth in the Property Condition Report, to Borrower's knowledge, (a) the Project, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing 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, subject to ordinary wear and tear; and (b) there exists no structural or other material defects or damages in the Project, whether latent or otherwise. Borrower has not received written notice from any insurance company or bonding company of any defects or inadequacies in the Project, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

Section 5.22 **Purchase Option**. Master Lessee will not modify the Purchase Option without the prior written consent of Administrative Agent. Borrower and Master Lessee acknowledge that Administrative Agent has no obligation to release the Mortgage until the Indebtedness is paid in full; provided, however, that LCRA shall be released from its obligations under this Agreement and the Loan Documents in connection with the occurrence of any LCRA Termination Right exercised in accordance with the terms of this Agreement.

ARTICLE 6

FINANCIAL REPORTING

Section 6.1 **Financial Statements**. Borrower shall furnish to Administrative Agent and shall cause each other Borrower Party to furnish to Administrative Agent such financial statements and other financial information required pursuant to this Article 6 and such other financial information as Administrative Agent may reasonably request from time to time. All such financial statements shall accurately and fairly present the results of operations and the financial condition of Borrower each of the other Borrower Parties at the dates and for the period indicated, shall be in scope and detail reasonably satisfactory to Administrative Agent and shall be otherwise sufficient to permit Administrative Agent and Lenders to calculate or verify Borrower's and Master Lessee's compliance with the financial covenants in Section 7.13 and Guarantor's compliance with the financial covenants in the Guaranty. All financial statements shall be delivered in Excel format.

(a) **Financial Information**. In furtherance of the foregoing, Borrower will furnish to Administrative Agent (or cause to be furnished to Administrative Agent) the following financial information and reports with respect to Borrower, Guarantor, the Project and each Operator (as applicable), in each case in form and format and providing information satisfactory to Administrative Agent in its reasonable discretion:

- (i) within forty-five (45) days after the end of each calendar quarter, internally prepared quarterly financial statements (including income statements and balance sheets)

prepared for Borrower and the Project which fairly present the financial condition of Borrower and the Project for such period and year-to-date;

(ii) within forty-five (45) days after the end of each calendar quarter, (A) a detailed operating statement (showing quarterly activity and year-to-date) stating operating revenues, operating expenses, operating income and net cash flow for the calendar quarter just ended and year-to-date for the Project, and (B) a current rent roll;

(iii) if requested by Administrative Agent, within thirty (30) days before the end of each fiscal year, annual projected (A) profit and loss statements and (B) operating and capital budgets (each prepared on a monthly basis) for the succeeding fiscal year;

(iv) within sixty (60) days after the end of each fiscal year, internally prepared annual financial statements prepared for Borrower in accordance with GAAP (except for the absence of footnotes and year-end adjustments) and based on an accrual basis of accounting consistent with industry standards;

(v) intentionally omitted;

(vi) within forty-five (45) days after the end of each calendar quarter, internally prepared quarterly financial statements (including income statements and balance sheets) prepared for Guarantor which fairly present the financial condition of Guarantor for such period;

(vii) within one hundred twenty (120) days after the end of each fiscal year, annual consolidated audited financial statements prepared for Guarantor in accordance with GAAP and prepared by a firm of independent public accountants reasonably satisfactory to Administrative Agent;

(viii) during any period in which Borrower is required by the terms of this Agreement to deposit Excess Cash Flow into the Project Yield Fund, within ten (10) days after the end of each calendar month, internally prepared income and cash flow statements for such month, a monthly statement for each Deposit Account maintained by Borrower (or by Property Manager on behalf of Borrower), a calculation of Excess Cash Flow for the prior month and a Special Compliance Certificate as of the end of such month; and

(ix) such additional information, reports or statements regarding Borrower, the Project and Guarantor as Administrative Agent may from time to time reasonably request.

(b) **Certification of Financial Statements**. If requested by Administrative Agent or if attached to the Compliance Certificate, each financial statement provided hereunder shall be certified by the chief financial representative of Borrower. Borrower will maintain a system of accounting established and administered in accordance with sound business practices to (i) permit preparation of financial statements on an accrual basis consistent with industry standards and substantially in accordance with GAAP, and (ii) provide the information required to be delivered to Administrative Agent hereunder.

(c) **Additional Reports.** Borrower shall deliver to Administrative Agent the following additional reports:

(i) from time to time, if any Lender determines that obtaining appraisals is necessary in order for such Lender to comply with applicable Requirements of Law (including any appraisals required to comply with FIRREA), Borrower shall furnish to Administrative Agent appraisal reports in form and substance and from appraisers reasonably satisfactory to Administrative Agent stating the then current fair market value of the Project; provided, however, that such report shall not be required more frequently than once during the term of the Loan unless (A) a Potential Default or Event of Default exists, (B) any Lender is required to obtain such report under applicable Requirements of Law more frequently than once during the term of the Loan, or (C) an appraisal is required in connection with the Extension Period;

(ii) within thirty (30) days following the request of Administrative Agent, a description of the type and amount of all capital expenditures at the Project during the prior calendar year;

(iii) within thirty (30) days following the request of Administrative Agent, evidence satisfactory to Administrative Agent that all federal and state taxes, including without limitation, payroll taxes, that are due have been paid in full by Borrower and each other Borrower Party, to be delivered to Administrative Agent (A) with respect to federal and state taxes (other than payroll taxes), within ten (10) days after the required filing date of the applicable tax return and (B) with respect to payroll taxes, within thirty (30) days following the end of each calendar quarter;

(iv) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the Patriot Act or other applicable anti-money laundering laws.

(d) **Tenant Financials.** Master Lessee will (i) diligently pursue delivery to Master Lessee of the financial statements of any Tenant (or Lease guarantor) that is obligated under the terms of its Lease to deliver financial statements, and (ii) promptly provide Administrative Agent copies thereof.

Section 6.2 Compliance Certificate. Within forty-five (45) days after the end of each calendar quarter, Borrower shall deliver and shall cause Guarantor to deliver such financial reports and information as Administrative Agent shall require evidencing compliance with the applicable financial covenants, together with a fully completed Compliance Certificate executed by an officer of Borrower or Guarantor, as applicable (or of their managing member or general partner), and, if requested by Administrative Agent, back-up documentation as Administrative Agent shall reasonably require evidencing compliance.

Section 6.3 Accounting Principles. All financial statements shall be prepared in accordance with GAAP (or such other accounting basis reasonably acceptable to Administrative Agent). Notwithstanding the foregoing, all financial statements delivered hereunder shall be

prepared, and all financial covenants contained herein shall be calculated, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any similar accounting principle) permitting a Person to value its financial liabilities at the fair value thereof.

Section 6.4 **Access**. Borrower shall permit Administrative Agent and any Lender to examine such records, books and papers of Borrower which reflect upon its financial condition and the income and expenses of the Project. In the event that Borrower fails to forward the financial statements required in this Article 6 within thirty (30) days after written request, Administrative Agent shall have the right to audit such records, books and papers at Borrower's expense.

Section 6.5 **Intentionally Omitted**.

Section 6.6 **Books and Records/Audits**. Borrower shall keep and maintain or cause to be kept and maintained at all times at the Project, or such other place as Administrative Agent may approve in writing, complete and accurate books of accounts and records adequate to reflect the results of the operation of the Project and to provide the financial statements required to be provided to Administrative Agent pursuant to Section 6.1 above and copies of all written contracts, material correspondence, and other material documents affecting the Project. Administrative Agent and its designated agents shall have the right to inspect and copy any of the foregoing. Additionally, if a Potential Default or Event of Default exists or if Administrative Agent or any Lender has a reasonable basis to believe that Borrower's records are materially inaccurate, Administrative Agent and each Lender may conduct a joint audit and determine, in such Person's reasonable discretion, the accuracy of Borrower's records and computations, such audit to be at Borrower's expense.

Section 6.7 **LCRA**. Notwithstanding anything to the contrary contained in this Agreement, LCRA will have no obligations under this Article 6 to deliver financial reports concerning LCRA, but Master Lessee will be responsible for delivery of the same financial reports as if it were a Borrower and LCRA makes no representations, warranties or covenants as to any other Borrower Party as to their respective financial reporting or financial standing.

ARTICLE 7 **COVENANTS**

Borrower covenants and agrees with each Lender and Administrative Agent as follows:

Section 7.1 **Transfers or Encumbrance of Property**.

(a) Neither Borrower nor Master Lessee shall cause or permit a Transfer (in each case, a "**Prohibited Transfer**") without the prior written consent of Administrative Agent and the Required Lenders, other than pursuant to Leases of space in the Improvements to Tenants in accordance with the provisions of Article 4 and pursuant to a LCRA Termination Right in accordance with the terms of this Agreement.

(b) A Prohibited Transfer shall include, but not be limited to, (i) an installment sale agreement wherein Borrower or Master Lessee agree to sell the Project or any part thereof for a price to be paid in installments; (ii) an agreement by Borrower or Master Lessee leasing all or a

substantial part of the Project for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's or Master Lessee's right, title and interest in and to any Leases or any rents; (iii) if a Restricted Party is a corporation, any merger, consolidation or Transfer of such corporation's stock or the creation or issuance of new stock in one or a series of transactions; (iv) if a Restricted Party is a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Transfer of the partnership interest of any general or limited partner or any profits or proceeds relating to such partnership interests or the creation or issuance of new partnership interests; (v) if a Restricted Party is a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Transfer of the membership interest of any member or any profits or proceeds relating to such membership interest; (vi) if a Restricted Party is a trust or nominee trust, any merger, consolidation or the Transfer of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests; or (vii) a Transfer which could result in an event of default under the Ground Lease or under the Master Lease.

(c) Notwithstanding the provisions of Section 7.1(b) and provided they would not result in an event of default under the Ground Lease or the Master Lease, any of the following Transfers shall not be deemed to be a Prohibited Transfer:

(i) a transfer by devise or descent or by operation of law upon the death of a member, partner or shareholder of a Restricted Party; or

(ii) the Transfer, in one or a series of transactions after the date hereof, of not more than forty-nine percent (49%) of the stock, limited partnership interests or non-managing membership interests (as the case may be) in a Restricted Party; provided, however, any such transfer shall be subject to the following additional conditions: (A) no such transfers shall result in a change in Control in the Restricted Party or change in control of the Project, (B) no transfer shall be made to any Prohibited Person or any Person that is not in compliance with Section 5.18, and (C) Administrative Agent shall receive not less than thirty (30) days prior written notice of such proposed transfer; or

(iii) any Transfer of the stock in any publicly traded company whose shares are listed on the New York Stock Exchange or such other nationally recognized stock exchange;

(iv) any Transfer of membership interests in Master Lessee to Mezzanine Lender or to another Person pursuant to the Mezzanine Loan Documents and in compliance with the Intercreditor Agreement (a "**Mezzanine Loan Transfer**"); or

(v) Any Transfer by LCRA of the LCRA Documents or the Master Lease Documents to the City of Kansas City, Missouri or to any successor entity of LCRA created by the City of Kansas City, Missouri, subject to the City of Kansas City, Missouri's and to any successor entity's consent, in their sole and absolute discretion, of any such Transfer.

Notwithstanding the foregoing, any Transfer, other than a Mezzanine Loan Transfer, that results in any Person owning in excess of forty-nine percent (49%) of the ownership interest in a Restricted Party shall be deemed a Prohibited Transfer and must comply with the requirements of Section 7.1(d) hereof.

(d) Administrative Agent's consent to any proposed Prohibited Transfer will be conditioned upon satisfaction of the following, it being understood that Administrative Agent is under no obligation to consent to any proposed Prohibited Transfer:

(i) no Potential Default or Event of Default shall have occurred and remain uncured;

(ii) the proposed transferee ("**Transferee**") and its principals, owners, officers and directors meet all of the eligibility, credit, management and other standards customarily applied by Administrative Agent and the Required Lenders at the time of the proposed transfer to the approval of borrowers in connection with the origination or purchase of similar mortgages on medical office buildings, to be determined by Administrative Agent in its sole discretion, including but not limited to, any standards with respect to (A) previous relationships between Administrative Agent or any Lender and the Transferee and its principals, (B) the reputation for integrity, honesty and veracity of the Transferee and its principals, owners, officers and directors, and (C) OFAC, money-laundering, anti-terrorism, SEC and other similar regulations and activities;

(iii) the Transferee and its property manager shall have sufficient experience in the ownership and management of properties similar to the Project, and Administrative Agent shall be provided with reasonable evidence thereof (and Administrative Agent reserves the right to approve the Transferee without approving the substitution of the property manager);

(iv) Administrative Agent shall have received evidence satisfactory to it that the single purpose nature and bankruptcy remoteness of Borrower, Master Lessee and Borrower's and Master Lessee's shareholders, partners, or members, as the case may be, following such transfer are in accordance with the requirements of Section 5.17 and Borrower and Master Lessee remains in compliance with the requirements of Section 5.18;

(v) if the Transferee will hold fee simple or leasehold title to the Project, the Transferee shall have executed and delivered to Administrative Agent an assumption agreement in form and substance acceptable to Administrative Agent, evidencing such Transferee's agreement to abide and be bound by the terms of the Note, the Mortgage, the other Loan Documents and the Environmental Indemnity Agreement, and containing such modifications to the Loan Documents and the Environmental Indemnity Agreement as Administrative Agent may require, together with such additional documents, legal opinions and title insurance endorsements as may be reasonably requested by Administrative Agent;

(vi) Administrative Agent shall have received on or prior to the date of the sale (A) if the Transferee will own the Project or all of the interests in Borrower, the Transfer Fee (for the benefit of Lenders), and (B) the payment of all costs and expenses incurred by

Administrative Agent and any Lender in connection with such assumption (including reasonable attorneys' fees and costs);

(vii) Administrative Agent shall have received such additional documentation as Administrative Agent may require in connection with the sale or transfer, including, but not limited to, a new Recourse Guaranty Agreement, Payment Guaranty and Environmental Indemnity Agreement (substantially in the form delivered to Administrative Agent contemporaneously herewith) from Persons acceptable to Administrative Agent (collectively, "**Replacement Guaranties**"), amendments to financing statements naming the Transferee as debtor and documentary evidence of the organization and good standing of the Transferee, and, provided no Event of Default or Potential Default then exists, upon the execution and delivery of such Replacement Guaranties, Administrative Agent shall execute and deliver to Guarantors a release of their obligations under the Recourse Guaranty Agreement, Payment Guaranty and Environmental Indemnity Agreement for any and all events occurring after the date of the Transfer to Transferee;

(viii) if required under the Ground Lease or Master Lease, Ground Lessor or Borrower, respectively, has approved the transfer and the Transferee;

(ix) without limiting the foregoing, if Administrative Agent shall consent to a transfer of the Project, the written assumption agreement described in Section 7.1(e)(v) above shall provide for the release of Borrower, but only as to acts or events occurring, or obligations arising, after the closing of such transfer; provided, however, with respect to a release of LCRA upon a Transfer in connection with a LCRA Termination Right exercised in accordance with the terms of this Agreement, LCRA shall be released as to acts or events occurring, or obligations arising, before and after the closing of such transfer;

(x) without limiting the foregoing, if Administrative Agent shall consent to a transfer of the Project and as a condition thereof requires a new guarantor/indemnitor in lieu of Guarantor, the written assumption agreement described in Section 7.1(e)(v) above shall provide for the release of Guarantor, but only as to acts or events occurring, or obligations arising, after the closing of such transfer; and

(A) without limiting the foregoing, if Administrative Agent shall consent to a transfer by Master Lessee of its interest in the Project, the written assumption agreement described in Subsection 7.1(e)(v) above shall provide for the release of Master Lessee, but only as to acts or events occurring, or obligations arising, after the closing of such transfer.

(e) Notwithstanding the provisions of Section 7.1(b) and Section 7.1(c) and provided they would not result in an event of default under the Ground Lease or the Master Lease, any of the following transfers shall not be deemed to be a Prohibited Transfer provided no such transfer shall result in a change in Control in Borrower, Master Lessee or Guarantor or change in control of the Project, no such transfer shall be made to any Person that is not in compliance with Section 5.18, and as a condition to each such transfer, Administrative Agent shall receive not less than thirty (30) days prior written notice of such proposed transfer: (i) transfers between Persons who, as of the date of this Agreement, are members of Master Lessee, Guarantor or entities owning

indirect interests in Master Lessee; or (ii) transfers by a member, partner or shareholder of a Restricted Party as of the date of this Agreement (a “**Trust Transferor**”) to a trust (the “**Trust Transferee**”), so long as a Principal is the trustee of the Trust Transferee, or (iii) transfers by a member, partner or shareholder of a Restricted Party that is a Trust Transferee back to its Trust Transferor, (iv) transfers by a member, partner or shareholder of a Restricted Party as of the date of this Agreement to its family members, or (v) transfers to an employee of Guarantor, not to exceed five percent (5%), or one of its wholly-owned subsidiaries.

(f) Borrower and Master Lessee acknowledge and agree that, notwithstanding the provisions of Section 7.8 (Mezzanine Financing) of the Ground Lease to the contrary, the prior written consent of Administrative Agent shall be required with respect to any such financing.

(g) All out of pocket expenses incurred by Administrative Agent and Lenders in connection with a Permitted Transfer or a request for a consent to a Prohibited Transfer, whether or not the Required Lenders consent to the Prohibited Transfer, shall be payable by Borrower. Neither Administrative Agent nor any Lender shall be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Indebtedness immediately due and payable upon a Prohibited Transfer made without Required Lenders’ consent. This provision shall apply to each and every Prohibited Transfer, whether or not the Required Lenders have consented to any previous Prohibited Transfer.

(h) Upon Administrative Agent’s request, Borrower and Master Lessee shall deliver all appropriate papers, certificates and affidavits requested by Administrative Agent that evidence the organization, good standing, qualification to do business and tax status of the Transferee, which papers, certificates and affidavits 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 and updated organizational charts reflecting such transfer, as well as all documents and information requested by Administrative Agent to confirm that such proposed transfer will satisfy the requirements of this Agreement, and sufficient for Administrative Agent and each Lender to undertake and review background checks and to satisfy such “know-your-customer” background checks and procedures as may be required to be performed by it pursuant to Requirements of Law or the policies of Administrative Agent or any Lender and to confirm that after giving effect to such transfer that no Person holding 20% or more of the direct or indirect interests in Borrower or Master Lessee or rights to distributions from Borrower or Master Lessee shall be a Prohibited Person or otherwise a Person with whom Administrative Agent or any Lender would be prohibited, pursuant to Requirements of Law or the policies of Administrative Agent or any Lender, to engage in the transactions under the Loan Documents.

Section 7.2 Taxes; Utility Charges. Except to the extent sums sufficient to pay all Taxes (defined herein) have been previously deposited with Administrative Agent as part of the Tax Impound and subject to Borrower’s right to contest in accordance with Section 11.14 hereof, Borrower shall pay before any fine, penalty, interest or cost may be added thereto, and shall not enter into any agreement to defer, any real estate taxes and assessments, franchise taxes and charges, and other governmental charges (the “**Taxes**”) that may become a Lien upon the Project or become payable during the term of the Loan. Borrower’s compliance with Section 3.5 of this Agreement relating to impounds for Taxes shall, with respect to payment of such Taxes, be deemed compliance with this Section 7.2. Borrower shall not suffer or permit the joint assessment of the

Project with any other real property constituting a separate tax lot or with any other real or personal property. Borrower shall promptly pay for all utility services provided to the Project.

Section 7.3 **Management.**

(a) Borrower acknowledges that the Lenders are making the Loan, in part, based upon the operational expertise of the Property Manager. Borrower shall not surrender, terminate, cancel, modify in any material respect, renew, amend, or extend the Management Agreement, or enter into any other agreement relating to the management or operation of the Project with Property Manager or any other Person, or consent to the assignment by the Property Manager of its interest under the Management Agreement, in each case without the express written consent of Administrative Agent, which consent shall not be unreasonably withheld, conditioned or delayed and shall be based upon Administrative Agent's evaluation of the proposed substitute manager's and operator's financial condition, credit history and credit worthiness, experience in operating and managing properties similar to the Project, performance and compliance history in connection with healthcare facilities, reputation for honesty and integrity and prior experience with Administrative Agent and the Lenders. In the event Borrower seeks Administrative Agent's approval of a new Property Manager, it will be reasonable for Administrative Agent to withhold its consent if the new manager (i) is not an Affiliate of Landmark Healthcare Companies LLC, a Delaware limited liability company, (ii) is not a reputable management company having at least five (5) years' experience in the management of commercial properties with similar uses as the Project and in the jurisdiction in which the Project is located, (iii) has not, for at least five (5) years prior to its engagement as property manager, managed at least (5) properties of the same property type as the Project, (iv) does not, at the time of its engagement as property manager, have at least 500,000 square feet of medical office buildings or healthcare related facilities under management, or (v) is the subject of a bankruptcy or similar insolvency proceeding. If at any time Administrative Agent consents to the appointment of a new manager, such new manager and Borrower shall, as a condition of Administrative Agent's consent, execute an Acknowledgment and Agreement of Property Manager in form and substance similar to the Acknowledgment of Property Manager executed by the Property Manager as of the Closing Date. Any change in ownership or control of the Property Manager shall be cause for Administrative Agent to re-approve such Property Manager and Management Agreement. Each Property Manager shall hold and maintain all necessary licenses, certifications and permits required by Requirements of Law to operate and manage the Project for which it is providing management services.

(b) Borrower shall cause Property Manager to manage the Project in accordance with the Management Agreement. Borrower shall (i) diligently perform and observe all of the terms, covenants and conditions of the Management Agreement on the part of Borrower to be performed and observed, (ii) promptly notify Administrative Agent of any notice received by Borrower of any default by Borrower in the performance or observance of any of the material terms, covenants or conditions of the Management Agreement on the part of Borrower to be performed and observed, and (iii) promptly deliver to Administrative Agent a copy of each financial statement, business plan, capital expenditures plan, report and estimate received by it under the Management Agreement. The management fee payable under the Management Agreement shall not exceed four percent (4%) of rental collections.

(c) Administrative Agent shall have the right to require Borrower to replace the Property Manager with a Person which is not an Affiliate of, but is chosen by, Borrower and approved by Administrative Agent, such approval not to be unreasonably withheld or delayed, upon the occurrence of any one or more of the following events: (i) at any time following the occurrence and continuance of an Event of Default, or (ii) if Property Manager has engaged in gross negligence, fraud or willful misconduct or is insolvent or a debtor in a bankruptcy proceeding and Borrower has not otherwise taken steps to remove or replace Property Manager under the terms of the Management Agreement.

Section 7.4 Operation; Maintenance; Inspection. Borrower shall observe and comply with all Requirements of Law applicable to the ownership, use and operation of the Project. Borrower shall maintain the Project in good condition and promptly repair any damage or casualty, normal wear and tear excepted. Borrower shall permit Administrative Agent, Lenders and their agents, representatives and employees, upon reasonable prior notice to Borrower, to inspect the Project and conduct such environmental and engineering studies as Administrative Agent may require, provided such inspections and studies do not materially interfere with the use and operation of the Project.

Section 7.5 Taxes on Security. Borrower shall pay all taxes, charges, filing, registration and recording fees, excises and levies payable with respect to the Note or the Liens created or secured by the Loan Documents, other than income, franchise and doing business taxes imposed on Administrative Agent or any Lender. If there shall be enacted any law (a) deducting the Loan from the value of the Project for the purpose of taxation, or (b) changing existing laws of taxation of mortgages, deeds of trust, security deeds, or debts secured by real property, or changing the manner of collecting any such taxes, Borrower shall promptly pay to Administrative Agent, on demand, all taxes, costs and charges for which Administrative Agent or any Lender is or may be liable as a result thereof; however, if such payment would be prohibited by law or would render the Loan usurious, then instead of collecting such payment, Administrative Agent may declare all amounts owing under the Loan Documents to be due and payable within ninety (90) days following receipt of such notice by Borrower.

Section 7.6 Legal Existence, Name, Etc. Borrower (other than LCRA) shall preserve and keep in full force and effect its existence as, and at all times operate as, a Single Purpose Entity, and shall preserve and keep in full force and effect its entity status, franchises, rights and privileges under the laws of the state of its formation, and all qualifications, licenses and permits applicable to the ownership, use and operation of the Project. Neither Borrower nor any general partner, manager or managing member of Borrower shall wind up, liquidate, dissolve, reorganize, merge, or consolidate with or into any Person, or permit any subsidiary or Affiliate of Borrower to do so. Without limiting the foregoing, Borrower shall not reincorporate or reorganize itself under the laws of any jurisdiction other than the jurisdiction in which it is incorporated or organized as of the Closing Date. Borrower and each general partner, manager or managing member in Borrower shall conduct business only in its own name and shall not change its name, identity, state of formation, or organizational structure, or the location of its chief executive office or principal place of business unless Borrower (a) shall have obtained the prior written consent of Administrative Agent to such change, and (b) shall have taken all actions necessary or requested by Administrative Agent to file or amend any financing statement or continuation statement to assure perfection and continuation of perfection of security interests under the Loan Documents.

Section 7.7 Further Assurances. Borrower shall promptly (a) cure any defects in the execution and delivery of the Loan Documents and the Environmental Indemnity Agreement, (b) provide, and cause each other Borrower Party to provide, Administrative Agent such additional information and documentation on Borrower's and each other Borrower Party's legal or beneficial ownership, policies, procedures, and sources of funds as Administrative Agent deems necessary or prudent to enable Administrative Agent and each Lender to comply with anti-money laundering laws as now in existence or hereafter amended, and (c) execute and deliver, or cause to be executed and delivered, all such other documents, agreements and instruments as Administrative Agent may reasonably request to further evidence and more fully describe the Collateral for the Loan, to correct any omissions in the Loan Documents or the Environmental Indemnity Agreement to perfect, protect or preserve any liens created under any of the Loan Documents and the Environmental Indemnity Agreement, or to make any recordings, file any notices, or obtain any consents, as may be necessary or appropriate in connection therewith. From time to time upon the written request of Administrative Agent, Borrower shall deliver to Administrative Agent a schedule of the name, legal domicile address and jurisdiction of organization, if applicable, for each Borrower Party and each holder of a legal interest in Borrower. Notwithstanding the foregoing, LCRA shall have no obligations under this Section 7.7 with respect to the Environmental Indemnity Agreement.

Section 7.8 Estoppel Certificates Regarding Loan. Borrower or Master Lessee, within ten (10) days after request, shall furnish to Administrative Agent a written statement, duly acknowledged, setting forth the amount due on the Loan, the terms of payment of the Loan, the date to which interest has been paid, whether any offsets or defenses exist against the Loan and, if any are alleged to exist, the nature thereof in detail, and such other matters as Administrative Agent reasonably may request.

Section 7.9 Notice of Certain Events. Borrower shall promptly notify Administrative Agent of (a) any notice of default received by Borrower under other obligations relating to the Project or otherwise material to Borrower's business, including any notices of violations of any laws, regulations, codes or ordinances which could reasonably be expected to have a Material Adverse Effect; (b) any threatened or pending legal, judicial or regulatory proceedings, including any dispute between Borrower and any Governmental Authority; (c) a copy of each notice of default or termination given or made to any Operator by Borrower or received by Borrower from any Operator; (d) a copy of each notice of default or termination under any license or permit necessary for the operation of the Project in the manner required by this Agreement; (e) any notice of a Healthcare Investigation; (f) any threatened or pending legal, judicial or regulatory proceedings pertaining to a Healthcare Investigation; and (g) any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified of such certification; and in the case of clauses (a), (c), (d), (e) or (f), promptly provide Administrative Agent with copies of such notices referred to therein.

Section 7.10 Payment For Labor and Materials. Subject to Borrower's right to contest in accordance with Section 11.14 hereof, Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Project and never permit to exist beyond the due date thereof in respect of the Project or any part thereof any Lien, even though inferior to the Liens hereof, and in any event never permit to be created or exist in respect of the Project or any part thereof any other or additional Lien other than the Liens

hereof, except for the Permitted Exceptions. In addition, the Master Lessee, at its cost, shall obtain or cause its construction contractor to obtain a payment and performance bond from a surety reasonably acceptable to LCRA and in an amount sufficient to secure full payment for completion of construction related to the Project as required by Section 107.170, of the Revised Statutes of Missouri, as amended. LCRA and Administrative Agent shall each be named as a dual obligee on such payment and performance bonds.

Section 7.11 Use and Proceeds, Revenues. No portion of the proceeds of the Loan shall be used by Borrower in any manner that might cause the borrowing or the application of such proceeds to violate Regulation D, Regulation T or Regulation X or any other regulation of the Board of Governors of the Federal Reserve System or to violate the Securities Act of 1933 or the Securities Exchange Act of 1934. Except as otherwise specifically provided in the Loan Documents, revenues and other proceeds from the Project received by Borrower or Master Lessee shall be applied to the Obligations due under the Loan Documents and the Environmental Indemnity Agreement, actual operating expenses relating to the Project of the type included in the definition of “Adjusted Expenses”, or other budgeted capital improvements, repairs or replacements for the Project before distribution by Borrower or Master Lessee to members, partners or shareholders, as applicable, or any other Borrower Party. For the avoidance of doubt, no distribution may be made by Borrower or Master Lessee to its members, partners or shareholders, as applicable, or to any other Borrower Party during any period in which (a) an Event of Default is in existence or (b) Borrower and Master Lessee are required to deposit Excess Cash Flow into the Project Yield Fund.

Section 7.12 Compliance with Laws and Contractual Obligations.

(a) Borrower will comply with and will cause Operators to comply with the Requirements of Law as are now in effect and which may be imposed upon Borrower or Operators or the maintenance, use or operation of the Project or the provision of services to the occupants of the Project and the obligations, covenants and conditions contained in all other material contractual obligations of Borrower, and as they relate to the Project and Operators. Without limitation of the foregoing, Borrower shall cooperate with Administrative Agent in connection with compliance with laws governing the National Flood Insurance Program, including by providing any information reasonably required by Administrative Agent in order to confirm compliance with such laws.

(b) Borrower will obtain and maintain and will cause Operators to obtain and maintain, all licenses, qualifications and permits now held or hereafter required to be held by Borrower or Operators for which the loss, suspension, revocation or failure to obtain or renew, could reasonably be expected to have a Material Adverse Effect.

Section 7.13 Financial Covenants. The Project shall satisfy each of the following covenants as of each Determination Date:

(a) **Resize Event.** If a Resize Event exists on any Determination Date, Administrative Agent shall deliver notice thereof to Borrower and Master Lessee and of any applicable Resize Amount and, within ten (10) days after Borrower’s and Master Lessee’s receipt of such notice, Borrower shall either (i) make a partial prepayment of the Loan in an amount equal to such Resize

Amount, (ii) deposit with Administrative Agent an amount equal to such Resize Amount, which deposit shall be held without interest in Administrative Agent's name, shall not be deemed to be held in trust for the benefit of Borrower or Master Lessee and may be commingled with the general funds of Administrative Agent (the “**Project Yield Fund**”), or (iii) deliver (or cause Master Lessee to deliver) to Administrative Agent a Special Letter of Credit with a face amount equal to such Resize Amount.

(b) **Cash Sweep.** If, as of any Determination Date, the Project Yield as of such Determination Date is less than the Cash Sweep Threshold, Borrower and Master Lessee shall, within ten (10) days after the end of each calendar month thereafter until such time as an Excess Cash Flow Termination Date shall have occurred, (i) deliver to Administrative Agent (A) internally prepared income and cash flow statements for such month, (B) a monthly statement for each Deposit Account maintained by Master Lessee (or by Property Manager on behalf of Master Lessee), (C) a calculation of Excess Cash Flow for such month, and (D) a Special Compliance Certificate as of the end of such month (collectively, the “**Cash Flow Requirements**”), and (ii) deposit the Excess Cash Flow for such month into the Project Yield Fund.

(c) **Application of Fund to Indebtedness.** If Borrower and Master Lessee are required to deposit Excess Cash Flow into the Project Yield Fund for four consecutive calendar quarters, then at any time following the commencement of such fourth consecutive calendar quarter, Administrative Agent may (i) cause any or all of the funds on deposit in the Project Yield Fund to be withdrawn, and (ii) draw all or any portion of any Special Letter of Credit then outstanding. Any amounts received by Administrative Agent as a result of the foregoing shall be applied (A) if no Event of Default is then in existence, to the then-outstanding principal balance of the Loan (without application of the Prepayment Premium) or (B) if an Event of Default is then in existence, to the Obligations in any order and any manner determined by Administrative Agent in its sole discretion.

(d) **Termination of Cash Sweep/Release of Cash Collateral.** So long as no Event of Default or Potential Default exists:

(i) if following the occurrence of a Resize Event, the Project Yield is then greater than or equal the Resize Threshold for two consecutive Determination Dates, as evidenced by Master Lessee’s submission to Administrative Agent of financial statements and Compliance Certificates in accordance with Article 6 of this Agreement, upon Master Lessee’s written request, Administrative Agent shall (1) take such steps as Master Lessee may reasonably request (and at Master Lessee’s expense) to effectuate termination of any then outstanding Special Letters of Credit and (2) release to Master Lessee an amount equal to the lesser of (A) the then current balance of the Project Yield Fund and (B) the Resize Amount deposited into the Project Yield Fund pursuant to Section 7.13(b) above; and

(ii) following the occurrence of the Excess Cash Flow Termination Date, upon Master Lessee’s written request, Administrative Agent shall release to Master Lessee the amounts then on deposit in the Project Yield Fund and take such steps as Master Lessee may reasonably request (and at Master Lessee’s expense) to effectuate termination of any then outstanding Special Letters of Credit.

(e) **Pledge.** Borrower and Master Lessee grant to Administrative Agent, as security for the Obligations, a security interest in the Project Yield Fund which shall be effective at such time as such Deposit Account is established by Borrower or Master Lessee. If an Event of Default shall occur and be continuing, Administrative Agent may (i) cause any or all of the funds on deposit in the Project Yield Fund to be withdrawn, and (ii) draw all or any portion of any Special Letter of Credit then outstanding. Any amounts received by Administrative Agent as a result of the foregoing may be applied on account of the Obligations in any order and any manner determined by Administrative Agent in its sole discretion.

(f) **Special Letter of Credit.** If Borrower or Master Lessee delivers a Special Letter of Credit, Borrower or Master Lessee (as applicable) shall deliver to Administrative Agent not later than thirty (30) days prior to the expiration date of such Special Letter of Credit and any renewal or replacement Special Letter of Credit, a renewal or replacement Special Letter of Credit identical in terms and amount. Failure to deliver any renewal or replacement Special Letter of Credit in accordance with the foregoing requirements shall constitute an immediate Event of Default without any further notice or opportunity to cure and Administrative Agent may, in its discretion, draw upon any Special Letter of Credit then in its possession and apply or hold such proceeds in accordance with the terms hereof. Administrative Agent reserves the right to periodically review the financial condition of the issuing financial institution for each Special Letter of Credit and any renewal or replacement Special Letter of Credit and if Administrative Agent determines that the issuing financial institution is no longer acceptable to Administrative Agent, Administrative Agent may require a replacement Special Letter of Credit in form and substance and from a United States bank acceptable to Administrative Agent, in its reasonable discretion.

(g) **Calculation Rules.** When calculating the Project Yield, the outstanding principal balance of the Loan will not be deemed reduced by any amounts in the Project Yield Fund or by the balance of any Special Letter of Credit.

(h) **Failure to Perform.** If Borrower or Master Lessee fail to perform their obligations under Section 7.13(a) or (b), Administrative Agent may exercise its rights under the Deposit Account Control Agreement to cause all revenues generated by Borrower, Master Lessee and the Project to be deposited into the Project Yield Fund. In such event, Borrower and Master Lessee hereby authorize Administrative Agent to disburse monies in the Project Yield Fund for the payment of all debt service, impounds, escrows, reserves and other amounts required to be paid to Administrative Agent or Lenders under the Loan Documents (the "**Lender Party Payments**").

(i) **Use of Funds.** If Borrower or Master Lessee desire to use monies in the Project Yield Fund to pay other operating expenses of the Project then Borrower and Master Lessee must comply with the Cash Flow Requirements and once a month, Master Lessee will submit to Administrative Agent an accounting of monthly expenses paid or due for the current month. Provided the Lender Party Payments have been made and no Potential Event of Default or Event of Default exists, Administrative Agent will disburse monies in the Project Yield Fund to pay such expenses, which monies will be used by Borrower and Master Lessee solely for that purpose.

Section 7.14 **Healthcare Laws and Covenants.** Without limiting the generality of any other provision of this Agreement, Borrower, Master Lessee and each Operator and their

employees and contractors (other than contracted agencies) in the exercise of their duties on behalf of Borrower, Master Lessee or any Operator (with respect to its operation of the Project) shall be in compliance in all material respects with all applicable Healthcare Laws. Borrower, Master Lessee and each Operator have maintained and shall continue to maintain in all material respects all records required to be maintained by any Governmental Authority or otherwise under the Healthcare Laws.

Section 7.15 Transactions With Affiliates. Without the prior written consent of Administrative Agent, Borrower shall not engage in any transaction affecting the Project with an Affiliate of Borrower, except as expressly contemplated by this Agreement or otherwise on arm's-length market terms. This Section 7.15 shall not apply to LCRA.

Section 7.16 Alterations. Without the prior written consent of Administrative Agent, Borrower shall not make, or allow to be made, any alteration to the Project (except tenant improvements under any Lease approved by Administrative Agent or deemed approved by Administrative Agent under the terms of this Agreement) (a) that affects the structural components of the Project, utilities, HVAC or the exterior of the Project, (b) that are reasonably likely to cause a Material Adverse Change or (c) the cost of which (including any related alteration, improvement or replacement) is reasonably anticipated to exceed the Restoration Threshold, which approval may be granted or withheld in Administrative Agent's reasonable discretion.

Section 7.17 Business and Operations. Borrower will continue to engage only in the businesses currently conducted by it on the date hereof, as and to the extent the same are necessary for the ownership and leasing of the Project. Borrower shall at all times cause the Project to be maintained in accordance with the Project's use as a medical office building. This Section 7.17 shall not apply to LCRA.

Section 7.18 Intentionally Omitted.

Section 7.19 Forfeiture. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording any Person Forfeiture Rights with respect to the Project.

Section 7.20 Patriot Act Compliance. Borrower shall comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over the Borrower Parties and the Project, including those relating to money laundering and terrorism. Administrative Agent shall have the right to audit any Borrower Party's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over any Borrower Party and the Project, including those relating to money laundering and terrorism. In the event that Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then Administrative Agent may, at its option, cause Borrower to comply therewith and any and all reasonable costs and expenses incurred by Administrative Agent in connection therewith shall be secured by the Mortgage and the other Loan Documents and shall be immediately due and payable.

Section 7.21 Post-Closing Obligations. Borrower shall satisfy the Post-Closing Obligations within the time periods set forth on Schedule 11.36.

Section 7.22 **Ground Lease.** Reference is made to the Mortgage for provisions addressing Borrower's and Master Lessee's obligations with respect to the Ground Lease.

Section 7.23 **Deposit Accounts.**

(a) Master Lessee shall deposit, and cause to be deposited, all collections, proceeds, funds, or revenues from the Project, including, without limitation, all receivables and all amounts due under the Leases into the Borrower's Account. Borrower, Master Lessee and each other Borrower Party hereby authorize Administrative Agent to automatically debit the Borrower's Account for the payment of any amounts due hereunder, or under any other Loan Documents or under any Hedge Agreement. All rents, additional rent and all other amounts received by Master Lessee with respect to the Project (i) shall be deemed to be collateral for the Loan and shall be held in trust for the benefit, and as the property, of Administrative Agent for the benefit of the Lenders, (ii) shall not be commingled with any other funds or property of Borrower or Master Lessee, and (iii) shall be deposited by Master Lessee into the Borrower's Account within five (5) Business Days after receipt of the same. Other than during the existence of an Event of Default or as provided in this Agreement, Master Lessee may give instructions regarding the disposition of funds in the Borrower's Account for any purpose not prohibited by the terms and conditions of this Agreement or the other Loan Documents; provided, however, that during the existence of an Event of Default, Administrative Agent shall have the exclusive right to give instructions regarding the disposition of funds in the Borrower's Account.

(b) Notwithstanding anything in any other agreement to the contrary, Master Lessee agrees that Master Lessee shall be liable for any fees and charges in effect from time to time and charged in connection with the Borrower's Account, and that Administrative Agent shall not have any liability therefor. Master Lessee further acknowledges and agrees that, to the extent such fees and charges are not paid by Master Lessee directly but are satisfied using amounts in the Borrower's Account such fees and charges shall be immediately (upon notice) due and payable from Master Lessee to Administrative Agent.

(c) During the existence of an Event of Default, Borrower and Master Lessee agree that all amounts in the Borrower's Account or otherwise received by Administrative Agent, may be applied on account of the Obligations in accordance with the terms of this Agreement.

(d) Administrative Agent agrees as follows with respect to the Deposit Account Control Agreement:

(i) Administrative Agent will only send a Notice of Exclusive Control (as such term is defined in the Deposit Account Control Agreement) following a Project Yield Default or an Event of Default. Administrative Agent will simultaneously send Master Lessee a copy of each Notice of Exclusive Control it sends.

(ii) So long as no Event of Default then exists, Administrative Agent will revoke a Notice of Exclusive Control at such time, if any, that Master Lessee has no further obligation to make payments to the Cash Flow Sweep Account (as more particularly described in Section 7.13(b)).

Section 7.24 **Master Lease.**

(a) As of the date hereof, the Project is subject to the Master Lease. The Loan Documents and Environmental Indemnity Agreement have been structured as if the Master Lease will be in effect until payment in full of the Loan. Borrower and Master Lessee agree that if the Master Lease is terminated for any reason, Administrative Agent, Lenders, Borrower and Master Lessee will promptly enter into (and cause the other Borrower Parties to enter into) a modification agreement, in a form reasonably acceptable to all parties thereto, modifying the Loan Documents and Environmental Indemnity Agreement as necessary (in the reasonable determination of Administrative Agent), to address the absence of the Master Lease and the substitution of Master Lessee as “Borrower” under the Loan Documents. The parties acknowledge that any termination of the Master Lease will limit LCRA’s involvement in the Project to winding down the sale/leaseback transaction as contemplated in the Master Lease and Master Lessee shall pay all costs and expenses, including reasonable attorney’s fees, incurred by LCRA in connection with any actions or documentation necessary to complete any such transfer, Loan modification, full release of LCRA’s obligations under the Loan Documents, and release by LCRA of all Liabilities of LCRA against each Indemnified Person (but not Master Lessee or any Related Person of Master Lessee).

(b) Reference is made to the applicable Mortgage for provisions addressing the Master Lessee’s and LCRA’s obligations with respect to the Master Lease.

Section 7.25 **LCRA Termination Right**. Master Lessee covenants to deliver to Administrative Agent (i) notice of Master Lessee’s exercise of the LCRA Termination Right contemporaneously with providing notice thereof to LCRA (provided, however, Master Lessee must provide Administrative Agent with at least 30 days’ prior written notice of its exercise of the LCRA Termination Right) and (ii) notice of the exercise by LCRA of a LCRA Termination Right promptly after receipt thereof by Master Lessee. The failure of Master Lessee to give such notice will not invalidate the exercise or consummation of a LCRA Termination Right. Borrower and Master Lessee hereby advise Administrative Agent that termination of the Master Lease shall also result in termination of the Redevelopment Contract and of the LCRA tax incentive program for the Project. Upon request of Administrative Agent, Borrower, Guarantor and Master Lessee shall execute a modification agreement in connection with the exercise of a LCRA Termination Right making any modifications to the Loan Documents and Environmental Indemnity Agreement reasonably requested by Administrative Agent, including, without limitation, the addition of Master Lessee as the successor Borrower, it being understood that Master Lessee will fully replace LCRA as Borrower for all purposes under the Loan Documents. The form of any modification agreement shall be subject to prior LCRA approval, which shall not be unreasonably withheld, conditioned, or delayed.

ARTICLE 8

EVENTS OF DEFAULT

Each of the following shall constitute an Event of Default hereunder and under the Loan:

Section 8.1 **Payments**. Failure of Borrower to pay any regularly scheduled installment of principal, interest or other amount due under the Loan Documents within five (5) days of (and

including) the date when due, or failure of Borrower to pay the Loan at the Maturity Date, whether by acceleration or otherwise.

Section 8.2 **Insurance.** Borrower's or Master Lessee's failure to maintain insurance as required under Section 3.1 of this Agreement.

Section 8.3 **Prohibited Transfer** A Prohibited Transfer occurs in violation of this Agreement.

Section 8.4 **Covenants.** Borrower's or Master Lessee's failure to perform, observe or comply with any of the agreements, covenants or provisions contained in this Agreement or in any of the other Loan Documents or Environmental Indemnity Agreement (other than those agreements, covenants and provisions referred to elsewhere in this Article 8), and the continuance of such failure for thirty (30) days after notice by Administrative Agent to Borrower; however, subject to any shorter period for curing any failure by Borrower or Master Lessee as specified in any of the other Loan Documents or Environmental Indemnity Agreement, Borrower or Master Lessee shall have an additional sixty (60) days to cure such failure if (a) such failure does not involve the failure to make payments on a monetary obligation; (b) such failure cannot reasonably be cured within thirty (30) days; and (c) Borrower or Master Lessee is diligently undertaking to cure such default. The notice and cure provisions of this Section 8.4 do not apply to the other Events of Default described in this Article 8 or to Borrower's or Master Lessee's failure to perform, observe or comply with any of the agreements, covenants or provisions referenced elsewhere in this Article 8 (for which no notice and cure period shall apply).

Section 8.5 **Representations and Warranties.** Any representation or warranty made in any Loan Document, the Environmental Indemnity Agreement or any Compliance Certificate or any Special Compliance Certificate proves to be untrue in any material respect when made or deemed made.

Section 8.6 **Other Encumbrances.** Any default by Borrower or Master Lessee under any document or instrument, other than the Loan Documents, evidencing or creating a Lien on the Project or any part thereof, is not cured within any applicable grace or cure period therein (it being agreed that the foregoing shall not apply to any assets or property of LCRA other than the Project).

Section 8.7 **Involuntary Bankruptcy or Other Proceeding.** Commencement of an involuntary case or other proceeding against Borrower or any other Borrower Party (each, a "**Bankruptcy Party**") which seeks liquidation, reorganization or other relief with respect to it or its debts or other liabilities under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeks the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of ninety (90) days; or an order for relief against a Bankruptcy Party shall be entered in any such case under the Federal Bankruptcy Code.

Section 8.8 **Voluntary Petitions, etc.** Commencement by a Bankruptcy Party of a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its Debts or other liabilities under any bankruptcy, insolvency or other similar law or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official for it

or any of its property, or consent by a Bankruptcy Party to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or the making by a Bankruptcy Party of a general assignment for the benefit of creditors, or the failure by a Bankruptcy Party, or the admission by a Bankruptcy Party in writing of its inability, to pay its debts generally as they become due, or any action by a Bankruptcy Party to authorize or effect any of the foregoing.

Section 8.9 Default Under Operators' Agreements. The occurrence of a default by Borrower or Master Lessee under any of the Operators' Agreements, which remains uncured beyond any applicable grace or cure periods.

Section 8.10 Certain Covenants. Borrower's or Master Lessee's failure to (i) maintain its status as a Single Purpose Entity; (ii) timely deliver the Compliance Certificate within ten (10) days after the required delivery date; (iii) comply with the provisions of Section 7.1; (iv) comply with the provisions of Section 7.13; or (v) provide Administrative Agent with ten (10) days subsequent written notice of changes of the state of Borrower's or Master Lessee's formation or Borrower's or Master Lessee's name.

Section 8.11 Financial Information. Borrower's or Master Lessee's failure to deliver financial statements, any Special Compliance Certificate, Compliance Certificate and any other report when and as required by Article 6 and the continuance of such failure for ten (10) days after the required delivery date.

Section 8.12 Default Under Guaranties. The occurrence of a default under the Recourse Guaranty Agreement or Payment Guaranty and such default is not cured within any grace or cure periods provided therein.

Section 8.13 Criminal Act. Borrower or Master Lessee is indicted of a felony crime involving fraud, embezzlement or other crime involving moral turpitude.

Section 8.14 Environmental Indemnity Agreement. There shall have occurred any default under the Environmental Indemnity Agreement by any party to the Environmental Indemnity Agreement which remains uncured beyond any applicable grace or cure periods available under the Environmental Indemnity Agreement.

Section 8.15 Post-Closing Requirements. The failure to satisfy the Post-Closing Obligations within the time periods set forth on Schedule 11.36.

Section 8.16 Death or Legal Incapacity of Guarantor. If any Guarantor is an individual, the death or legal incapacity of such Guarantor.

Section 8.17 Secured Hedge Agreement. The occurrence of a default under a Secured Hedge Agreement which remains uncured beyond any applicable grace or cure periods provided therein.

Section 8.18 Deposit Account Control Agreement. The occurrence of a default under the Deposit Account Control Agreement which remains uncured beyond any applicable grace or cure periods provided therein.

Section 8.19 **Ground Lease; Easement Agreement**. The (i) occurrence of a default by Borrower or Master Lessee under the Ground Lease or the Easement Agreement which remains uncured beyond any applicable grace or cure periods provided therein, or (ii) the modification, termination or surrender of the Ground Lease or the Easement Agreement, except a modification of the Ground Lease approved by Administrative Agent intended to preserve the tax exempt status of the Project.

Section 8.20 **Major Lease**. Without the prior written consent of Administrative Agent and the Required Lenders, the (a) termination or acceptance of a surrender of the Major Lease, (b) the modification of any Consent Required Provision of the Major Lease, or (c) if landlord's consent is required pursuant to the terms of the Major Lease, Borrower or Master Lessee consents to any assignment or sublease of the Major Lease.

Section 8.21 **Intercreditor Agreement and Mezzanine Loan Documents**. The (i) occurrence of a default under the Mezzanine Loan Documents which remains uncured beyond any applicable grace or cure periods provided therein, or (ii) modification of the Mezzanine Loan Documents without the prior written consent of Administrative Agent.

Section 8.22 **Purchase Option**. The Purchase Option is modified without the prior written consent of Administrative Agent.

Section 8.23 **Master Lease Documents**. The (i) occurrence of a default under any of the Master Lease Documents which remains uncured beyond applicable grace or cure periods provided therein, (ii) except in connection with the exercise of a LCRA Termination Right, the modification, termination or surrender of any of the Master Lease Documents without the prior written consent of Administrative Agent, or (iii) the occurrence of a default under Section 7.24.

Section 8.24 **LCRA Documents**. The (i) occurrence of a default under any of the LCRA Documents which remains uncured beyond applicable grace or cure periods provided therein, or (ii) except in connection with the exercise of a LCRA Termination Right, the modification, termination or surrender of any of the LCRA Documents without the prior written consent of Administrative Agent.

ARTICLE 9 **REMEDIES**

Section 9.1 **Remedies - Insolvency Events**. Upon the occurrence of any Event of Default described in Sections 8.7 or 8.8, all amounts due under the Loan Documents immediately shall become due and payable, all without written notice and without presentment, demand, protest, notice of protest or dishonor, notice of intent to accelerate the maturity thereof, notice of acceleration of the maturity thereof, or any other notice of default of any kind, all of which are hereby expressly waived by Borrower; however, if the Bankruptcy Party under Sections 8.7 or 8.8 is other than Borrower, then all amounts due under the Loan Documents shall become immediately due and payable at Administrative Agent's election, in Administrative Agent's sole discretion.

Section 9.2 **Remedies - Other Events**. Except as set forth in Section 9.1 above, while any Event of Default exists, Administrative Agent may and at the direction of the Required Lenders shall, on behalf of and for the benefit of the Lenders, (a) by written notice to Borrower, declare the

entire Loan to be immediately due and payable without presentment, demand, protest, notice of protest or dishonor, notice of intent to accelerate the maturity thereof, notice of acceleration of the maturity thereof, or other notice of default of any kind, all of which are hereby expressly waived by Borrower, and (b) exercise all rights and remedies therefor under the Loan Documents (including any Deposit Account Control Agreement) and at law or in equity. Notwithstanding anything to the contrary contained in the Loan Documents or the Environmental Indemnity Agreement, the enforcement of the obligations of Borrower and the other Borrower Parties under the Loan Documents and the Environmental Indemnity Agreement and the exercise of rights and remedies thereunder shall be undertaken solely by Administrative Agent in its capacity as agent for the Lenders.

Section 9.3 **Administrative Agent's Right to Perform the Obligations.** If (i) Borrower shall fail, refuse or neglect to make any payment or perform any act required by the Loan Documents to which LCRA is a party or (ii) Master Lessee shall fail, refuse or neglect to make any payment or perform any act required by the Loan Documents or the Environmental Indemnity Agreement, then while any Event of Default exists, and without notice to or demand upon Borrower and without waiving or releasing any other right, remedy or recourse Administrative Agent may have because of such Event of Default, Administrative Agent may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Borrower, and shall have the right to enter upon the Project for such purpose and to take all such action thereon and with respect to the Project as it may deem necessary or appropriate. If Administrative Agent shall elect to pay any sum due with reference to the Project, Administrative Agent may do so in reliance on any bill, statement or assessment procured from the appropriate Governmental Authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by the Loan Documents, Administrative Agent shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same. All sums expended by Administrative Agent to which it shall be entitled to be indemnified, together with interest thereon at the Default Rate from the date of such payment or expenditure until paid, shall constitute additions to the Loan, shall be secured by the Loan Documents and shall be paid by Borrower to Administrative Agent upon demand.

Section 9.4 **Deposit Account Control Agreement.** Administrative Agent may, and at the direction of Required Lenders shall, exercise the rights given to Administrative Agent under the Deposit Account Control Agreement, including, sending a Notice of Exclusive Control (as defined in the Deposit Account Control Agreement), at any time during the existence of an Event of Default.

ARTICLE 10

ADMINISTRATIVE AGENT

Section 10.1 Appointment and Duties.

(a) Each Lender hereby appoints CONA (together with any successor Administrative Agent pursuant to Section 10.8) as Administrative Agent hereunder and authorizes Administrative Agent to (i) execute and deliver the Loan Documents and the Environmental Indemnity Agreement

and accept delivery thereof on its behalf from Borrower or any other Borrower Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Administrative Agent under such Loan Documents and the Environmental Indemnity Agreement, and (iii) exercise such powers as are reasonably incidental thereto.

(b) Without limiting the generality of clause (a) above, Administrative Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (i) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Loan Documents and the Environmental Indemnity Agreement (including in any proceeding described in Section 8.7 or Section 8.8 or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document and the Environmental Indemnity Agreement to any Secured Party is hereby authorized to make such payment to Administrative Agent, (ii) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Obligation in any proceeding described in Section 8.7 or Section 8.8 or any other bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Secured Party), (iii) act as collateral agent for each Secured Party for purposes of the perfection of all Liens created by such agreements and all other purposes stated therein, (iv) manage, supervise and otherwise deal with the Collateral, (v) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (vi) except as may be otherwise specified in any Loan Document or the Environmental Indemnity Agreement, exercise all remedies given to Administrative Agent and the other Secured Parties with respect to the Collateral, whether under the Loan Documents or the Environmental Indemnity Agreement, applicable law or otherwise, (vii) execute any amendment, consent or waiver under the Loan Documents and the Environmental Indemnity Agreement on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Administrative Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Administrative Agent and the Lenders for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by the Borrower or any other Borrower Party with, and cash and cash equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to Administrative Agent, and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed and (viii) provide each Lender within ten (10) Business Days following receipt, copies of the reports and financial information received from Borrower under Article 6 and notices of default delivered by or received by Administrative Agent under this Agreement.

(c) Under the Loan Documents and the Environmental Indemnity Agreement, Administrative Agent (i) is acting solely on behalf of the Lenders (except to the limited extent provided in Section 2.12(b) with respect to the Register), with duties that are entirely administrative in nature, notwithstanding the use of the defined term “Administrative Agent”, the terms “agent”, “administrative agent” and “collateral agent” and similar terms in any Loan Document and the Environmental Indemnity Agreement to refer to Administrative Agent, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document or the Environmental Indemnity Agreement other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Secured Party and (iii) shall have no

implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document or the Environmental Indemnity Agreement, and each Lender hereby waives and agrees not to assert any claim against Administrative Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

(d) The relationship between Administrative Agent and each Lender is a contractual relationship only, and nothing herein shall be deemed to impose on Administrative Agent any obligations other than those for which express provision is made herein or in the other Loan Documents. Administrative Agent may employ agents and attorneys, and may delegate all or any part of its obligations hereunder, to third parties and shall not be responsible for the negligence or misconduct of any such agents, attorneys in fact or third parties selected by it in good faith. Administrative Agent may deem and treat the payee of a Note as the holder thereof for all purposes hereof unless and until a notice of the assignment or transfer thereof shall have been filed with Administrative Agent, any such assignment or transfer to be subject to the provisions of Section 11.3. The provisions of this Article 10 are solely for the benefit of Administrative Agent and the Lenders, and Borrower shall not have any rights as a third-party beneficiary of any of the provisions hereof and Administrative Agent and the Lenders may modify, amend or waive such provisions of this Article 10 in their sole and absolute discretion.

Section 10.2 Binding Effect. Each Lender agrees that (i) any action taken by Administrative Agent or the Required Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents or the Environmental Indemnity Agreement, (ii) any action taken by Administrative Agent in reliance upon the instructions of Required Lenders (or, where so required, such greater proportion) and (iii) the exercise by Administrative Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

Section 10.3 Use of Discretion.

(a) Administrative Agent shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or the Environmental Indemnity Agreement, or (ii) pursuant to instructions from the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) Notwithstanding clause (a) of this Section 10.3, Administrative Agent shall not be required to take, or to omit to take, any action (i) unless, upon demand, Administrative Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to Administrative Agent, any other Secured Party) against all Liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against Administrative Agent or any Related Person thereof or (ii) that is, in the opinion of Administrative Agent or its counsel, contrary to any Loan Document or the Environmental Indemnity Agreement or applicable Requirements of Law.

Section 10.4 Intentionally Omitted.

Section 10.5 **Liability.** None of Administrative Agent and its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document or the Environmental Indemnity Agreement, and each Lender and Borrower (on its own behalf and on behalf of the other Borrower Parties, it being acknowledged that LCRA is not making any waivers on behalf of any other Borrower Parties) hereby waives and shall not assert any right, claim or cause of action based thereon, except to the extent of liabilities resulting primarily from the gross negligence or willful misconduct of Administrative Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, Administrative Agent:

(a) shall have no duties or responsibilities except those expressly set forth in this Agreement and in the other Loan Documents and the Environmental Indemnity Agreement, and shall not by reason of this Agreement, or any other Loan Document or the Environmental Indemnity Agreement, be a trustee for any Lender;

(b) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of Administrative Agent, when acting on behalf of Administrative Agent);

(c) shall not be responsible to any Secured Party for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document or the Environmental Indemnity Agreement;

(d) makes no warranty or representation, and shall not be responsible, to any Secured Party for any statement, document, information, representation or warranty made or furnished by or on behalf of any Related Person or any Borrower Party in connection with any Loan Document, the Environmental Indemnity Agreement or any transaction contemplated therein or any other document or information with respect to any Borrower Party, whether or not transmitted or (except for documents expressly required under any Loan Document or the Environmental Indemnity Agreement to be transmitted to the Lenders) omitted to be transmitted by Administrative Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by Administrative Agent in connection with the Loan Documents or the Environmental Indemnity Agreement; and

(e) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document or the Environmental Indemnity Agreement, whether any condition set forth in any Loan Document or the Environmental Indemnity Agreement is satisfied or waived, as to the financial condition of any Borrower Party or as to the existence or continuation or possible occurrence or continuation of any Potential Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from Borrower, any Lender describing such Potential Default or Event of Default clearly labeled "notice of default" (in which case Administrative Agent shall promptly give notice of such receipt to all Lenders);

For each of the items set forth in clauses (a) through (e) above, each Lender and Borrower (on behalf of itself and each of the other Borrower Parties, except that LCRA is not making any waivers on behalf of any other Borrower Parties) hereby waives and agrees not to assert any right, claim or cause of action it might have against Administrative Agent based thereon.

Section 10.6 Administrative Agent Individually. Administrative Agent and its Affiliates may make loans and other extensions of credit to, acquire stock and stock equivalents of, engage in any kind of business with Borrower or any other Borrower Party or Affiliate thereof as though it were not acting as Administrative Agent and may receive separate fees and other payments therefor. To the extent Administrative Agent or any of its Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms “Lender,” and “Required Lender,” and any similar terms shall, except where otherwise expressly provided in any Loan Document or the Environmental Indemnity Agreement, include, without limitation, Administrative Agent or such Affiliate, as the case may be, in its individual capacity as Lender or as one of the Required Lenders, respectively.

Section 10.7 Lender Credit Decision. Each Lender acknowledges that it shall, independently and without reliance upon Administrative Agent, any other Lender or any of their Related Persons or upon any document solely or in part because such document was transmitted by Administrative Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of Borrower and each other Borrower Party and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or the Environmental Indemnity Agreement or with respect to any transaction contemplated in any Loan Document or the Environmental Indemnity Agreement, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document or the Environmental Indemnity Agreement to be transmitted by Administrative Agent to the Lenders, Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of Borrower or any other Borrower Party or any Affiliate of Borrower or any other Borrower Party that may come into the possession of Administrative Agent or any of its Related Persons.

Section 10.8 Resignation of Administrative Agent.

(a) Administrative Agent may resign at any time by delivering notice of such resignation to the Lenders and Borrower, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall be effective. If Administrative Agent delivers any such notice, the Required Lenders shall have the right to appoint a successor Administrative Agent. If, within 30 days after the retiring Administrative Agent having given notice of resignation, no successor Administrative Agent has been appointed by the Required Lenders that has accepted such appointment, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent from among the Lenders.

(b) Effective immediately upon its resignation, (i) the retiring Administrative Agent shall be discharged from its duties and obligations under the Loan Documents and the

Environmental Indemnity Agreement accruing after the date of its resignation, (ii) the Lenders shall assume and perform all of the duties of Administrative Agent until a successor Administrative Agent shall have accepted a valid appointment hereunder, (iii) the retiring Administrative Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document or the Environmental Indemnity Agreement other than with respect to any actions taken or omitted to be taken while such retiring Administrative Agent was, or because such Administrative Agent had been, validly acting as Administrative Agent under the Loan Documents and (iv) subject to its rights under Section 9.3, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents and the Environmental Indemnity Agreement. Effective immediately upon its acceptance of a valid appointment as Administrative Agent, a successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent under the Loan Documents and the Environmental Indemnity Agreement.

(c) Administrative Agent may be removed as Administrative Agent upon the request of all Lenders (other than Affiliates of Administrative Agent) upon the determination by a court of competent jurisdiction that Administrative Agent has committed actions constituting gross negligence or willful misconduct under this Agreement. The provisions of subsection (b) above shall apply upon such removal.

Section 10.9 Additional Secured Parties. The benefit of the provisions of the Loan Documents and the Environmental Indemnity Agreement directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender as long as, by accepting such benefits, such Secured Party agrees, as among Administrative Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Administrative Agent, shall confirm such agreement in a writing in form and substance acceptable to Administrative Agent) this Article 10, Section 11.7 (Right of Setoff; Sharing of Payments), Section 2.14(b) (Sharing of Payments, Etc.) and Section 11.35 (Non-Public Information; Disclosure) and the decisions and actions of Administrative Agent and the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders) to the same extent a Lender is bound; provided, however, that, notwithstanding the foregoing, (a) such Secured Party shall be bound by Section 10.12 only to the extent of Liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of Pro Rata Share or similar concept, (b) except as set forth specifically herein, each of Administrative Agent and each Lender shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Obligation and (c) except as set forth specifically herein, such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document or the Environmental Indemnity Agreement.

Section 10.10 Reliance by Administrative Agent. Administrative Agent shall be entitled to rely upon any certification, notice or other communication (including any thereof by telephone,

facsimile, telegram or cable) reasonably believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by Administrative Agent. As to any matters not expressly provided for by this Agreement or any other Loan Document or the Environmental Indemnity Agreement, Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder or thereunder in accordance with instructions given by the Required Lenders, and any action taken or failure to act pursuant thereto shall be binding on all of the Lenders.

Section 10.11 Rights as a Lender. With respect to CONA's Loan Commitment, if any, and the advances of the Loan made by it, CONA (and any successor acting as Administrative Agent) in its capacity as a Lender hereunder shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as Administrative Agent, and the term "**Lender**" or "**Lenders**" shall, unless the context otherwise indicates, include Administrative Agent in its individual capacity. CONA (and any successor acting as Administrative Agent) and its Affiliates may (without having to account therefor to any Lender) lend money to, make investments in and generally engage in any kind of lending, trust or other business with Borrower or any other Borrower Party (and any of their Affiliates) as if it were not acting as Administrative Agent, and CONA and its Affiliates may accept fees and other consideration from Borrower for services in connection with this Agreement or otherwise without having to account for the same to the Lenders.

Section 10.12 Standard of Care; Indemnification. In performing its duties under the Loan Documents and the Environmental Indemnity Agreement, Administrative Agent will exercise the same degree of care as Administrative Agent normally exercises in connection with similar loans held for its own account, but Administrative Agent shall have no further responsibility to any Lender except as expressly provided herein and except for its own gross negligence or willful misconduct which resulted in actual loss to such Lender, and, except to such extent, Administrative Agent shall have no responsibility to any Lender for the failure by Administrative Agent to comply with any of Administrative Agent's obligations to Borrower or any other Borrower Party under the Loan Documents, the Environmental Indemnity Agreement or otherwise. The Lenders agree to indemnify Administrative Agent (to the extent not reimbursed under Sections 11.5 or 11.11, but without limiting the obligations of Borrower under Sections 11.5 or 11.11) ratably in accordance with each Lender's Pro Rata Share, for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against Administrative Agent (including by any Lender) arising out of or by reason of any investigation in or in any way relating to or arising out of this Agreement or any other Loan Document, the Environmental Indemnity Agreement or any other documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby (including the costs and expenses that Borrower is obligated to pay under Section 11.11, but excluding, unless an Event of Default has occurred and is continuing, normal administrative costs and expenses incident to the performance of its agency duties hereunder) or the enforcement of any of the terms hereof or thereof or of any such other documents, provided that no Lender shall be liable for any of the foregoing to the extent they arise from Administrative Agent's breach of its standard of care set forth in the first sentence of this Section.

Section 10.13 Failure to Act. Except for actions expressly required of Administrative Agent hereunder, and under the other Loan Documents and the Environmental Indemnity Agreement, Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder and thereunder unless it shall receive further assurances to its satisfaction from the Lenders of their indemnification obligations under Section 10.12 against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action.”

Section 10.14 The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF ANY MATERIALS OR INFORMATION PROVIDED BY OR ON BEHALF OF BORROWER OR ANY OTHER BORROWER PARTY OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM ANY MATERIALS OR INFORMATION PROVIDED BY OR ON BEHALF OF BORROWER OR ANY OTHER BORROWER PARTY. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH ANY MATERIALS OR INFORMATION PROVIDED BY OR ON BEHALF OF BORROWER OR ANY OTHER BORROWER PARTY OR THE PLATFORM. In no event shall Administrative Agent or any of its Related Persons (collectively, the “**Agent Parties**”) have any liability to Borrower, any other Borrower Party, any Lender, or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of Borrower’s any other Borrower Party’s, or Administrative Agent’s transmission of any materials or information provided by or on behalf of Borrower any other Borrower Party through the internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to Borrower, any other Borrower Party, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

Section 10.15 Liability of Administrative Agent. Administrative Agent shall not have any liabilities or responsibilities to Borrower or other Borrower Party on account of the failure of any Lender (other than Administrative Agent in its capacity as a Lender) to perform its obligations hereunder or to any Lender on account of the failure of Borrower or other Borrower Party to perform its obligations hereunder, under any other Loan Document or under the Environmental Indemnity Agreement.

Section 10.16 USA Patriot Act Notice; Compliance. In order for Administrative Agent to comply with the USA Patriot Act of 2001 (Public Law 107-56), prior to any Lender that is organized under the laws of a jurisdiction outside of the United States of America becoming a party hereto, Administrative Agent may request, and such Lender shall provide to Administrative Agent, its name, address, tax identification number or such other identification information as shall be necessary for Administrative Agent to comply with federal law.

Section 10.17 **No Reliance on Administrative Agent's Customer Identification Program**. Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on Administrative Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the Patriot Act or the regulations thereunder, including the regulations contained in 31 CFR 1020.220 (as hereafter amended or replaced, the "**CIP Regulations**"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with Borrower or any other Borrower Parties, their Affiliates or their agents, the Loan Documents, the Environmental Indemnity Agreement or the transactions hereunder or contemplated hereby: (i) any identity verification procedures, (ii) any recordkeeping, (iii) comparisons with government lists, (iv) customer notices, or (v) other procedures required under the CIP Regulations or such other Anti-Terrorism Law.

ARTICLE 11 **MISCELLANEOUS**

Section 11.1 **Notices**.

(a) **Notices; Physical Addresses**. Any notice required or permitted to be given under this Agreement shall be in writing and either shall be mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight air courier service, or personally delivered to a representative of the receiving party, or sent by facsimile (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section 11.1). All such communications shall be mailed, sent or delivered, addressed to the party for whom it is intended at its address set forth below.

To Borrower: Land Clearance for Redevelopment Authority of Kansas
City, Missouri
300 Wyandotte Street, Suite 400
Kansas City, MO 64105
Attention: Executive Director
Facsimile: 816-221-0189

With a copy to: Rouse Frets White Goss Gentile Rhodes, P.C.
4510 Belleview, Suite 300
Kansas City, Missouri 64111
Attention: Brian E. Engel
Facsimile: 816-753-9201

And a copy to: Hospital Hill Medical Office Building LLC
839 North Jefferson Street, Suite 600
Milwaukee, WI 53202
Attention: Joseph J. Balistreri
Facsimile: (414) 277-1055

And a copy to: Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202
Attention: Stephen C. Elliott
Facsimile: (414) 298-8097

If to Master Lessee: Hospital Hill Medical Office Building LLC
839 North Jefferson Street, Suite 600
Milwaukee, WI 53202
Attention: Joseph J. Balistreri
Facsimile: (414) 277-1055

With a copy to: Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 1700
Milwaukee, WI 53202
Attention: Stephen C. Elliott
Facsimile: (414) 298-8097

To Administrative Agent: Capital One, National Association
77 West Wacker Drive, 10th Floor
Chicago, IL 60601
Attention: Dan Eppley, Senior Director
Facsimile: (855) 544-4044
Reference: Landmark Kansas City MOB

With a copy to: Capital One, National Association
77 West Wacker Drive, 10th Floor
Chicago, IL 60601
Attention: Jeffrey M. Muchmore, Credit Executive
Facsimile: (855) 332-1699
Reference: Landmark Kansas City MOB

And a copy to: Capital One, National Association
5804 Trailridge Drive
Austin, TX 78731
Attention: Diana Pennington, Senior Director, Associate
General Counsel
Facsimile: (855) 438-1132
Reference: Landmark Kansas City MOB

To a Lender: To the address set forth on **Exhibit C** attached hereto

If to Mezzanine Lender: DOC-LM Kansas City MOB, LLC
c/o Physicians Realty Trust
309 N. Water St., Suite 500
Milwaukee, WI 53202
Attention: John T. Thomas

Any notice or request so addressed and sent by United States mail or overnight courier shall be deemed to be given on the earliest of (1) when actually delivered, (2) on the first Business Day after deposit with an overnight air courier service, or (3) on the third Business Day after deposit in the United States mail, postage prepaid, in each case to the address of the intended addressee (except as otherwise provided in the Mortgage). Any notice or request so delivered in person shall be deemed to be given when received for by, or actually received by Administrative Agent, a Lender, Borrower or Master Lessee, as the case may be. If given by facsimile, a notice or request shall be deemed given and received when the facsimile is transmitted to the party's facsimile number specified above and confirmation of complete receipt is received by the transmitting party during normal business hours or on the next Business Day if not confirmed during normal business hours, and an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section 11.1. Except for facsimile notices sent as expressly described above, no notice hereunder shall be effective if sent or delivered by Electronic Transmission. Any party may designate a change of address by written notice to the other by giving at least ten (10) days prior written notice of such change of address.

Section 11.2 Amendments and Waivers.

(a) No amendment or waiver of any provision of any Loan Document or the Environmental Indemnity Agreement and no consent to any departure by Borrower or any other Borrower Party therefrom shall be effective unless the same shall be in writing and signed (i) in the case of an amendment, consent or waiver to cure any ambiguity, omission, defect or inconsistency or granting a new Lien for the benefit of the Secured Parties or extending an existing Lien over additional property, by Administrative Agent, Borrower and Master Lessee, (ii) in the case of any other waiver or consent, by the Required Lenders (or by Administrative Agent with the written consent of the Required Lenders) and (iii) in the case of any other amendment, by the Required Lenders (or by Administrative Agent with the consent of the Required Lenders) and Borrower and Master Lessee; provided, however, that no amendment, consent or waiver described in clause (ii) or (iii) above shall be effective, unless in writing and signed by each Lender (or by Administrative Agent with the consent of the Lenders), in addition to any other Person the signature of which is otherwise required pursuant to any Loan Document or the Environmental Indemnity Agreement, and such amendment, consent or waiver does any of the following:

- (A) waives any condition precedent to the effectiveness of this Agreement, except any condition referring to any other provision of any Loan Document or the Environmental Indemnity Agreement;
- (B) increases the Loan Commitment of any Lender or subjects any Lender to any additional obligation or otherwise increases the principal amount of the Loan;

(C) reduces (including through release, forgiveness, assignment or otherwise) (i) the principal amount of, the interest rate on, or any obligation of Borrower to repay (whether or not on a fixed date), any outstanding amount under the Loan owing to Lenders or (ii) any fee or accrued interest payable to any Lender; provided, however, that this clause (C) does not apply to (x) any change to any provision increasing any interest rate or fee during the continuance of an Event of Default or to any payment of any such increase or (y) any modification to any financial covenant set forth in Article 7 or the Recourse Guaranty Agreement or Payment Guaranty or in any definition set forth therein or principally used therein;

(D) waives or postpones any scheduled maturity date or other scheduled date fixed for the payment, in whole or in part, of principal of or interest on the Loan (including any agreement to forbear that would have the same effect) or fee owing to such Lender or for the reduction of such Lender's Loan Commitment; provided, however, that this clause (iv) does not apply to any change to mandatory prepayments, including those required under this Agreement, or to the application of any payment, including as set forth in Section 2.6;

(E) releases all or substantially all of the Collateral or any Guarantor from its guaranty of any Obligation of Borrower or Master Lessee;

(F) reduces or increases the proportion of Lenders required for the Lenders (or any subset thereof) to take any action hereunder or change the definition of the terms "Required Lenders," "Pro Rata Share," or "Pro Rata Outstandings"; or

(G) amends Section 2.14(b) (Sharing of Payments, Etc.) or this Section 11.2;

(b) Anything herein to the contrary notwithstanding, (A) any waiver of any payment applied pursuant to Section 2.6 (Application of Payments) to, and any modification of the application of any such payment to the Loan shall require the consent of the Required Lenders, (B) no amendment, waiver or consent shall affect the rights or duties under any Loan Document or the Environmental Indemnity Agreement of, or any payment to, Administrative Agent (or otherwise modify any provision of Article 10 or the application thereof), and (C) (1) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that (x) the Loan Commitment or of such Lender may not be increased or extended without the consent of such Lender, (y) the outstanding balance of such Lender's Pro Rata Share of the Loan may not be forgiven without the consent of such Lender, and (z) the interest rate on the Loan cannot be reduced unless the Defaulting Lender is treated the same as all other Lenders; (2) each Lender is entitled to vote as such Lender sees fit on any bankruptcy or insolvency reorganization plan that affects the Loan; (3) each Lender acknowledges that the provisions of Section 1126(c) of the Federal Bankruptcy Code supersedes the unanimous consent provisions set forth herein; and (4) the Required Lenders may consent to allow Borrower or Master Lessee to use cash collateral in the context of a bankruptcy or insolvency proceeding.

(c) Each waiver or consent under any Loan Document (including the Recourse Guaranty Agreement and Payment Guaranty) or the Environmental Indemnity Agreement shall be effective only in the specific instance and for the specific purpose for which it was given. No

notice to or demand on Borrower or any other Borrower Party shall entitle such Person to any notice or demand in the same, similar or other circumstances. No failure on the part of any Secured Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. To the extent the consent of any Lender is required with respect to any amendment or waiver of any Loan Document or the Environmental Indemnity Agreement under the terms of this Section 11.2, each Lender will respond to any such request in a commercially reasonable manner and timeframe.

(d) This Agreement and the other Loan Documents and the Environmental Indemnity Agreement shall not be executed, entered into, altered, amended, or modified by Electronic Transmission. Without limiting the generality of the foregoing, Borrower, Master Lessee, Administrative Agent, and each Lender hereby agree that the transactions contemplated by this Agreement shall not be conducted by Electronic Transmission, except as specifically set forth in Section 11.1 regarding notices. Any reference to a Loan Document or the Environmental Indemnity Agreement, whether in this Agreement or in any other Loan Document or the Environmental Indemnity Agreement, shall be deemed to be a reference to such Loan Document or the Environmental Indemnity Agreement as it may hereafter from time to time be amended, modified, supplemented and restated in accordance with the terms hereof.

(e) Unless also consented to in writing by such Secured Hedge Provider or, in the case of a Secured Hedge Agreement provided or arranged by CONA or an Affiliate of CONA, CONA, no such amendment, waiver or consent with respect to this Agreement or any other Loan Document or the Environmental Indemnity Agreement shall (i) alter the ratable treatment of Obligations arising under Secured Hedge Agreements such that such Obligations become junior in right of payment to principal on the Loan or (ii) result in Obligations owing to any Secured Hedge Provider becoming unsecured (other than releases of Liens applicable to all Lenders and otherwise permitted in accordance with the terms hereof), in each case in a manner adverse to such Secured Hedge Provider.

Section 11.3 Assignments and Participations; Binding Effect.

(a) **Binding Effect.** Subject to the provisions of this Section 11.3, this Agreement shall be binding upon and inure to the benefit of Administrative Agent, the Lenders, Borrower and Master Lessee and their respective successors and permitted assigns, provided that neither Borrower nor any other Borrower Party shall, without the prior written consent of Administrative Agent and Lenders, assign any of its rights, duties or obligations hereunder to any other Person.

(b) **Assignments by the Lenders.** Each Lender (other than a Defaulting Lender) may sell, transfer, negotiate or assign all or a portion of its rights and obligations hereunder (including all or a portion of its Loan Commitment and its rights and obligations with respect to the Loan) to (i) any existing Lender (other than a Defaulting Lender), (ii) any Affiliate or Approved Fund of any existing Lender (so long as such Person would not, upon acceptance of such rights and obligations hereunder, constitute a Defaulting Lender) or (iii) any other Person (other than Borrower, Master Lessee, Guarantor or an Affiliate thereof) acceptable (which acceptance shall not be unreasonably withheld or delayed) to Administrative Agent (each such transferee, assignee or purchaser herein called a "**Lender Transferee**"); provided, however, that the aggregate

outstanding principal amount (determined as of the effective date of the applicable Assignment and Assumption) of the Loan subject to any such sale shall be in a minimum amount of \$1,000,000, unless such sale is made to an existing Lender or an Affiliate or Approved Fund of any existing Lender, is of the assignor's (together with its Affiliates and Approved Funds) entire interest in the Loan or is made with the prior consent of Administrative Agent. A Defaulting Lender may not sell, transfer, negotiate or assign all or a portion of its rights and obligations hereunder except with Administrative Agent's consent or at Administrative Agent's direction in accordance with Section 2.18(c) hereof. A Defaulting Lender (or Person that would constitute a Defaulting Lender upon acceptance of rights and obligations hereunder) may not be the recipient of the sale, transfer, negotiation or assignment of any rights or obligations hereunder except with the consent of Administrative Agent and Required Lenders.

(c) **Assignment Procedures.** The parties to each transfer or sale made in reliance on clause (b) above shall execute and deliver to Administrative Agent an Assignment and Assumption via an electronic settlement system designated by Administrative Agent (or if previously agreed with Administrative Agent, via a manual execution and delivery of the Assignment and Assumption) evidencing such transfer or sale, together with any existing Note subject to such transfer or sale (or any affidavit of loss therefor acceptable to Administrative Agent), any tax forms or other forms required to be delivered by Administrative Agent, and payment of an assignment fee in the amount of \$3,500, provided that (1) if a transfer or sale by a Lender is made to an Affiliate or an Approved Fund of such assigning Lender, then no assignment fee shall be due in connection with such transfer or sale, and (2) if a transfer or sale by a Lender is made to an assignee that is not an Affiliate or Approved Fund of such assignor Lender, and concurrently to one or more Affiliates or Approved Funds of such assignee, then only one assignment fee of \$3,500 (unless waived by Administrative Agent), shall be due in connection with such transfer or sale. Upon receipt of all the foregoing, and conditioned upon such receipt and, if such assignment is made in accordance with Section 11.3(b)(iii), upon Administrative Agent consenting to such Assignment and Assumption, from and after the effective date specified in such Assignment and Assumption, Administrative Agent shall record or cause to be recorded in the Register the information contained in such Assignment and Assumption.

(d) **Participations.** A Lender may sell or agree to sell to one or more other Persons (each a "**Participant**") a participation in all or any part of the Pro Rata Share of the Loan held by it, or in its Loan Commitment, provided that such Participant shall not have any rights or obligations under this Agreement or any Note or any other Loan Document (the Participant's rights against such Lender in respect of such participation to be those set forth in the agreements executed by such Lender and the applicable Participant). All amounts payable by Borrower to any Lender under Section 2.6 in respect of its Pro Rata Share and its Loan Commitment shall be determined as if such Lender had not sold or agreed to sell any participations in the Loan and its Loan Commitment, and as if such Lender were funding its Pro Rata Share of the Loan (if applicable) and its Loan Commitment in the same way that it is funding its Pro Rata Share of the Loan and its Loan Commitment in which no participations have been sold.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the

Participant, agree to any amendment, waiver or other modification described in clauses (i) through (vi) of Section 11.2(a) that affects such Participant.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loan or other obligations under the Loan Documents (the "**Participant Register**"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) **Effect of Assignment.** Subject to the recording of an Assignment and Assumption by Administrative Agent in the Register pursuant to Section 2.12(b), (i) the assignee thereunder shall become a party hereto and, to the extent that rights and obligations under the Loan Documents and the Environmental Indemnity Agreement have been assigned to such assignee pursuant to such Assignment and Assumption, shall have the rights and obligations of a Lender, (ii) any applicable Note shall be transferred to such assignee through such entry and (iii) the assignor thereunder shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment and Assumption, relinquish its rights (except for those surviving the termination of the Loan Commitments and the payment in full of the Obligations) and be released from its obligations under the Loan Documents and the Environmental Indemnity Agreement, other than those relating to events or circumstances occurring prior to such assignment (and, in the case of an Assignment and Assumption covering all or the remaining portion of an assigning Lender's rights and obligations under the Loan Documents and the Environmental Indemnity Agreement, such Lender shall cease to be a party hereto except that each Lender agrees to remain bound by Article 10, Section 11.7 (Right of Setoff; Sharing of Payments) and Section 11.35 (Non-Public Information; Confidentiality).

(f) **Certain Pledges.** In addition to the assignments and participations permitted under the foregoing provisions of this Section 11.3 (but without being subject thereto):

(i) Any Lender may (without notice to Borrower, Master Lessee, Administrative Agent or any other Lender and without payment of any fee) assign and pledge all or any portion of its Pro Rata Share of the Loan and its Note to any Federal Reserve Bank as collateral security pursuant to Regulation A and any operating circular issued by such Federal Reserve Bank, and such Pro Rata Share of the Loan and Note shall be fully transferable as provided therein. No such assignment shall release the assigning Lender from its obligations hereunder.

(ii) Any Lender may pledge its Pro Rata Share of the Loan and its Note to any Person that has provided a credit facility or source of liquidity to such Lender. No such pledge shall release the assigning Lender from its obligations hereunder. Any subsequent assignment upon the exercise of pledge remedies shall be subject to the terms of Section 11.3(b).

(g) **Provision of Information to Assignees and Participants.** Subject to the provisions of Section 11.35, a Lender may furnish any information concerning Borrower or Master Lessee or any of their Affiliates in the possession of such Lender from time to time to Lender Transferees and Participants (including prospective Lender Transferees and Participants).

(h) **No Assignments to Borrower or Affiliates.** Anything in this Section 11.3 to the contrary notwithstanding, no Lender may assign or participate any interest in any Loan held by it hereunder to Borrower, Master Lessee or any of their Affiliates without the prior written consent of each Lender.

Section 11.4 Renewal, Extension or Rearrangement. Subject to Section 11.9, all provisions of the Loan Documents shall apply with equal effect to each and all promissory notes and amendments thereof hereinafter executed which in whole or in part represent a renewal, extension, increase or rearrangement of the Loan; provided, however, that the Maturity Date shall not be extended past the scheduled expiration date of the Master Lease.

Section 11.5 Indemnities.

(a) Borrower shall protect, defend, indemnify and save harmless Administrative Agent and each Lender, their respective shareholders, directors, officers, employees and agents (each, an “**Indemnified Person**”) from and against all Liabilities imposed upon or incurred by or asserted against any Indemnified Person, whether brought by a third party or any Borrower Party, by reason of (i) credit having been extended, suspended or terminated under this Agreement and the other Loan Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith; (ii) ownership of the Mortgage, the Project or any interest therein or receipt of any rents and the exercise of rights and remedies thereunder; (iii) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Project or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iv) any use, nonuse or condition in, on or about the Project or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (v) performance of any labor or services or the furnishing of any materials or other property in respect of the Project or any part thereof; (vi) the failure of any Person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Agreement, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Agreement is made; (vii) any securities filing of, or with respect to, Borrower, any other Borrower Party or the Project; (viii) any commitment letter, proposal letter or term sheet with any Person and any contractual obligation entered into in connection with any E-Systems or other Electronic Transmissions; (ix) any actual or prospective investigation, litigation or other proceeding, whether or not brought by any such Indemnified Person or any of its Related

Persons, any holders of securities or creditors, whether or not any such Indemnified Person, Related Person, holder or creditor is a party thereto, and whether or not based on any securities or commercial law or regulation or any other Requirements of Law or theory thereof, including common law, equity, contract, tort or otherwise; (x) all sums paid by Administrative Agent pursuant to Section 9.3, or (xi) any other act, event or transaction related, contemplated in or attendant to any of the foregoing (collectively, the “**Indemnified Matters**” and each, an “**Indemnified Matter**”); provided, however, that Borrower shall have no liability under this Section 11.5 to any Indemnified Person with respect to any Indemnified Matter, and no Indemnified Person shall have any liability with respect to any Indemnified Matter other than (to the extent otherwise liable), to the extent such liability has resulted from the gross negligence or willful misconduct of such Indemnified Person, as determined by a court of competent jurisdiction in a final non-appealable judgment or order. Furthermore, Borrower (on its own behalf and on behalf of each other Borrower Party, except that LCRA does not make any waiver or agreement on behalf of any other Borrower Party) waives and agrees not to assert against any Indemnified Person any right of contribution with respect to any Liabilities that may be imposed on, incurred by or asserted against any Related Person.

(b) Any indemnification or other protection provided to any Indemnified Person pursuant to any Loan Document and the Environmental Indemnity Agreement and all representations and warranties made in any Loan Document and the Environmental Indemnity Agreement shall (i) survive the termination of the Loan Commitment and the payment in full of other Obligations and (ii) inure to the benefit of any Person that at any time held a right thereunder (as an Indemnified Person or otherwise) and, thereafter, its successors and permitted assigns, except that upon the occurrence of a LCRA Termination Right exercised in accordance with this Agreement, LCRA shall be fully released from its obligations under this Agreement and the Loan Documents and no survival provision shall apply to LCRA.

(c) In no event shall any Indemnified Person be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings). Borrower (on its own behalf and, except for LCRA, on behalf of the other Borrower Parties, it being acknowledged that LCRA is not making any waivers on behalf of any other Borrower Parties) hereby waives, releases and agrees not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

Section 11.6 Debtor-Creditor Relationship. The relationship between the Lenders and Administrative Agent, on the one hand, and Borrower, on the other hand, is solely that of debtor and creditor. No Secured Party has any fiduciary relationship or duty to any Borrower Party arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Secured Parties and Borrower and any other Borrower Party by virtue of, any Loan Document, the Environmental Indemnity Agreement or any transaction contemplated therein.

Section 11.7 Right of Setoff; Sharing of Payments. Each of Administrative Agent, each Lender, and each Affiliate (including each branch office thereof) of any of them is hereby authorized, without notice or demand (each of which is hereby waived by Borrower and Master Lessee), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all

deposits (whether general or special, time or demand, provisional or final) at any time held and other indebtedness, claims or other obligations at any time owing by Administrative Agent, such Lender, or any of their respective Affiliates to or for the credit or the account of Borrower or Master Lessee against any Obligation of any Borrower Party now or hereafter existing, whether or not any demand was made under any Loan Document or the Environmental Indemnity Agreement with respect to such Obligation and even though such Obligation may be unmatured. Each of Administrative Agent and each Lender agrees promptly to notify Borrower and Administrative Agent after any such setoff and application made by such Lender or its Affiliates; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights under this Section 11.7 are in addition to any other rights and remedies (including other rights of setoff) that Administrative Agent, the Lenders, and their Affiliates and other Secured Parties may have.

If any Lender, directly or through an affiliate or branch office thereof, obtains any payment of any Obligation of Borrower or any other Borrower Party (whether voluntary, involuntary or through the exercise of any right of setoff or the receipt of any Collateral or “proceeds” (as defined under the applicable UCC) of Collateral) other than pursuant to Section 2.4(f) (Libor Breakage Amount), Section 2.8 (Capital Adequacy; Increased Costs; Illegality), and Section 2.9 (Interest Rate Protection) and such payment exceeds the amount such Lender would have been entitled to receive if all payments had gone to, and been distributed by, Administrative Agent in accordance with the provisions of the Loan Documents, such Lender shall purchase for cash from other Secured Parties such participations in their Obligations as necessary for such Lender to share such excess payment with such Secured Parties to ensure such payment is applied as though it had been received by Administrative Agent and applied in accordance with this Agreement (or, if such application would then be at the discretion of Borrower or Master Lessee, applied to repay the Obligations in accordance herewith); provided, however, that (i) if such payment is rescinded or otherwise recovered from such Lender in whole or in part, such purchase shall be rescinded and the purchase price therefor shall be returned to such Lender without interest and (ii) such Lender shall, to the fullest extent permitted by applicable Requirements of Law, be able to exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Lender were the direct creditor of Borrower or Master Lessee in the amount of such participation.

Section 11.8 Marshaling; Payments Set Aside. No Secured Party shall be under any obligation to marshal any property in favor of any Borrower Party or any other party or against or in payment of any Obligation. To the extent that any Secured Party receives a payment from any Borrower Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

Section 11.9 Limitation on Interest. It is the intention of the parties hereto to conform strictly to applicable usury laws. Accordingly, all agreements between Borrower, Administrative Agent and Lenders with respect to the Loan are hereby expressly limited so that in no event, whether by reason of acceleration of maturity or otherwise, shall the amount paid or agreed to be

paid to Administrative Agent and any Lender or charged by Administrative Agent or any Lender for the use, forbearance or detention of the money to be lent hereunder or otherwise, exceed the maximum amount allowed by law. If the Loan would be usurious under applicable law (including the laws of the State of Illinois and the laws of the United States of America), then, notwithstanding anything to the contrary in the Loan Documents: (a) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, taken, reserved, charged or received under the Loan Documents and the Environmental Indemnity Agreement shall under no circumstances exceed the maximum amount of interest allowed by applicable law, and any excess shall be credited on the Note by the holder thereof (or, if the Note has been paid in full, refunded to Borrower); and (b) if maturity is accelerated by reason of an election by Administrative Agent, or in the event of any prepayment, then any consideration which constitutes interest may never include more than the maximum amount allowed by applicable law. In such case, excess interest, if any, provided for in the Loan Documents and the Environmental Indemnity Agreement or otherwise, to the extent permitted by applicable law, shall be amortized, prorated, allocated and spread from the date of advance until payment in full so that the actual rate of interest is uniform through the term hereof. If such amortization, proration, allocation and spreading is not permitted under applicable law, then such excess interest shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited on the Note (or, if the Note has been paid in full, refunded to Borrower). The terms and provisions of this Section 11.9 shall control and supersede every other provision of the Loan Documents and the Environmental Indemnity Agreement. The Loan Documents and the Environmental Indemnity Agreement are contracts made under and shall be construed in accordance with and governed by the laws of the State of Illinois, except that if at any time the laws of the United States of America permit Administrative Agent or the Lenders to contract for, take, reserve, charge or receive a higher rate of interest than is allowed by the laws of the State of Illinois (whether such federal laws directly so provide or refer to the law of any state), then such federal laws shall to such extent govern as to the rate of interest which Administrative Agent or the Lenders may contract for, take, reserve, charge or receive under the Loan Documents and the Environmental Indemnity Agreement.

Section 11.10 Invalid Provisions. If any provision of any Loan Document or the Environmental Indemnity Agreement is held to be illegal, invalid or unenforceable, such provision shall be fully severable; the Environmental Indemnity Agreement and the Loan Documents shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part thereof; the remaining provisions thereof shall remain in full effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance therefrom; and in lieu of such illegal, invalid or unenforceable provision there shall be added automatically as a part of such Environmental Indemnity Agreement or such Loan Document a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible to be legal, valid and enforceable.

Section 11.11 Reimbursement of Expenses.

(a) Any action taken by any Borrower Party under or with respect to any Loan Document or the Environmental Indemnity Agreement, even if required under any Loan Document or the Environmental Indemnity Agreement or at the request of any Secured Party, shall be at the expense of such Borrower Party, and no Secured Party shall be required under any Loan Document or the Environmental Indemnity Agreement to reimburse any Borrower Party therefor except as

expressly provided therein. In addition, Borrower agrees to pay or reimburse upon demand (a) Administrative Agent for all reasonable out-of-pocket costs and expenses incurred by it or any of its Related Persons in connection with the investigation, development, preparation, negotiation, syndication, execution, interpretation or administration of, any modification of any term of or termination of, any Loan Document or the Environmental Indemnity Agreement (recognizing that LCRA is not a party to the Environmental Indemnity Agreement and has no obligations or liabilities thereunder), any commitment or proposal letter therefor, any other document prepared in connection therewith or the consummation and administration of any transaction contemplated therein, in each case including the reasonable fees, charges and disbursements of legal counsel to Administrative Agent or such Related Persons, fees, costs and expenses incurred in connection with Intralinks® or any other E-System and allocated to the Loan by Administrative Agent in its sole discretion and fees, charges and disbursements of the auditors, appraisers, printers and other of their Related Persons retained by or on behalf of any of them or any of their Related Persons, (b) Administrative Agent and each Lender for all reasonable costs and expenses incurred by them or any of their Related Persons in connection with internal audit reviews, field examinations, financial investigation, and Collateral examinations, including, without limitation, any tax service company, (c) each of Administrative Agent, its Related Persons, and each Lender for all costs and expenses incurred in connection with (i) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a “work-out”, (ii) the enforcement or preservation of any right or remedy with respect to any Obligation, the Collateral or under any Loan Document or the Environmental Indemnity Agreement (recognizing that LCRA is not a party to the Environmental Indemnity Agreement and has no obligations or liabilities thereunder), or any other related right or remedy or (iii) the commencement, defense, conduct of, intervention in, or the taking of any other action with respect to, any proceeding (including any bankruptcy or insolvency proceeding) related to any Borrower Party, any Loan Document, the Environmental Indemnity Agreement (recognizing that LCRA is not a party to the Environmental Indemnity Agreement and has no obligations or liabilities thereunder), any Obligation or related transaction (or the response to and preparation for any subpoena or request for document production relating thereto), including fees and disbursements of counsel (including allocated costs of internal counsel), (d) costs incurred in connection with settlement of condemnation and casualty awards, premiums for title insurance and endorsements thereto, and (e) fees and costs for Uniform Commercial Code and litigation searches and background checks.

(b) Borrower shall also pay to Administrative Agent on each Payment Date during the term of the Loan, in addition to all other amounts due under the Loan Documents, the sum of \$150.00 which Administrative Agent shall apply against the cost and expenses incurred in connection with the annual on-site audit and inspection of the Project.

Section 11.12 Approvals; Third Parties; Conditions. All approval rights retained or exercised by Administrative Agent or the Lenders with respect to Leases, contracts, plans, studies and other matters are solely to facilitate Administrative Agent’s and the Lenders’ credit underwriting, and shall not be deemed or construed as a determination that Administrative Agent or the Lenders have passed on the adequacy thereof for any other purpose and may not be relied upon by Borrower, Master Lessee or any other Person. This Agreement is for the sole and exclusive use of Administrative Agent (and its successors and permitted assigns), the Lenders (and their successors and permitted assigns and participants), Borrower and Master Lessee and may not be enforced, nor relied upon, by any Person other than Administrative Agent (and its successors

and permitted assigns), the Lenders (and their successors and permitted assigns and participants), Borrower and Master Lessee. All conditions of the obligations of Administrative Agent and the Lenders hereunder, including the obligation to make advances, are imposed solely and exclusively for the benefit of Administrative Agent and the Lenders, their successors and assigns, and no other Person shall have standing to require satisfaction of such conditions or be entitled to assume that any Lender will refuse to make advances in the absence of strict compliance with any or all of such conditions, and no other Person shall, under any circumstances, be deemed to be a beneficiary of such conditions, any and all of which may be freely waived in whole or in part by any Lender at any time in such Lender's sole discretion.

Section 11.13 Administrative Agent and Lenders Not in Control; No Partnership.

None of the covenants or other provisions contained in this Agreement shall, or shall be deemed to, give Administrative Agent or the Lenders the right or power to exercise control over the affairs or management of Borrower or Master Lessee, the power of Administrative Agent and the Lenders being limited to the rights to exercise the remedies referred to in the Environmental Indemnity Agreement or the Loan Documents. No covenant or provision of the Environmental Indemnity Agreement or the Loan Documents is intended, nor shall it be deemed or construed to, and Administrative Agent, Lenders, Borrower and Master Lessee disclaim any intention to, create a partnership, joint venture, agency or common interest in profits or income among Administrative Agent and the Lenders or any of them, on the one hand, and Borrower or Master Lessee, on the other hand, or to create an equity interest in the Project in Administrative Agent or any Lender. None of Administrative Agent nor any Lender undertakes or assumes any responsibility or duty to Borrower, Master Lessee or to any other Person with respect to the Project or the Loan, except as expressly provided in the Environmental Indemnity Agreement and the Loan Documents; and notwithstanding any other provision of the Environmental Indemnity Agreement or the Loan Documents: (a) none of Administrative Agent or any Lender are, and shall not be construed as, a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of Borrower or Master Lessee or Borrower's or Master Lessee's stockholders, members, or partners and Administrative Agent and the Lenders do not intend to ever assume such status; (b) Administrative Agent and the Lenders shall in no event be liable for any Debts, expenses or losses incurred or sustained by Borrower or Master Lessee; and (c) Administrative Agent and the Lenders shall not be deemed responsible for or a participant in any acts, omissions or decisions of Borrower or Master Lessee or Borrower's or Master Lessee's stockholders, members, or partners.

Section 11.14 Contest of Certain Claims. Borrower may contest the validity of Taxes or any mechanic's or materialman's lien asserted against the Project so long as (a) Borrower notifies Administrative Agent that it intends to contest such Taxes or liens, as applicable, (b) Borrower provides Administrative Agent with an indemnity, bond or other security reasonably satisfactory to Administrative Agent assuring the discharge of Borrower's obligations for such Taxes or liens, as applicable, including interest and penalties, (c) Borrower is diligently contesting the same by appropriate legal proceedings in good faith and at its own expense and concludes such contest prior to the tenth (10th) day preceding the earlier to occur of the Maturity Date or the date on which the Project is scheduled to be sold for non-payment, and (d) Borrower promptly upon final determination thereof pays the amount of any such Taxes or liens, as applicable, together with all costs, interest and penalties which may be payable in connection therewith. Notwithstanding the foregoing, Borrower shall immediately upon request of Administrative Agent pay any such Taxes

or liens, as applicable, notwithstanding such contest if, in the opinion of Administrative Agent, the Project or any part thereof or interest therein may be in danger of being sold, forfeited, foreclosed, terminated, canceled or lost.

Section 11.15 **Time of the Essence**. Time is of the essence with respect to this Agreement.

Section 11.16 **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of Administrative Agent, the Lenders, Borrower and Master Lessee and their respective successors and assigns, provided that neither Borrower nor any other Borrower Party shall, without the prior written consent of the Lenders, assign any of its rights, duties or obligations hereunder.

Section 11.17 **Waivers**.

(a) No course of dealing on the part of Administrative Agent or the Lenders or their respective officers, employees, consultants or agents, nor any failure or delay by Administrative Agent or any Lender with respect to exercising any right, power or privilege of Administrative Agent or the Lenders under the Environmental Indemnity Agreement and any of the Loan Documents, shall operate as a waiver thereof.

(b) Borrower and Master Lessee hereby waives any right under the UCC or any other applicable law to receive notice or copies of any filed or recorded financing statements, amendments thereto, continuations thereof or termination statements and releases and excuses Administrative Agent and each Lender from any obligation under the UCC or any other applicable law to provide notice or a copy of any such filed or recorded documents.

Section 11.18 **Cumulative Rights; Joint and Several Liability**. Rights and remedies of Administrative Agent (on behalf of the Lenders) under the Environmental Indemnity Agreement and the Loan Documents shall be cumulative, and the exercise or partial exercise of any such right or remedy shall not preclude the exercise of any other right or remedy. If more than one person or entity has executed this Agreement as "Borrower," the obligations of all such persons or entities hereunder shall be joint and several; provided, however, application of any joint and several liability provision against LCRA shall be subject to Section 12.3.

Section 11.19 **Intentionally Omitted**.

Section 11.20 **Singular and Plural**. Words used in this Agreement, the other Loan Documents and the Environmental Indemnity Agreement, in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular in this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement shall apply to such words when used in the plural where the context so permits and vice versa.

Section 11.21 **Exhibits and Schedules**. The exhibits and schedules attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein.

Section 11.22 **Titles of Articles, Sections and Subsections.** All titles or headings to articles, sections, subsections or other divisions of this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement or the exhibits hereto and thereto are only for the convenience of the parties and shall not be construed to have any effect or meaning with respect to the other content of such articles, sections, subsections or other divisions, such other content being controlling as to the agreement between the parties hereto.

Section 11.23 **Promotional Material.** Borrower and Master Lessee authorize Administrative Agent and any Lender to issue press releases, advertisements and other promotional materials in connection with Administrative Agent's or such Lender's own promotional and marketing activities and such materials may describe the Loan in general terms or in detail and Administrative Agent's and such Lender's participation therein in the Loan. All references to Administrative Agent or any Lender contained in any press release, advertisement or promotional material issued by Borrower or Master Lessee shall be approved in writing by Administrative Agent in advance of issuance.

Section 11.24 **Survival.** All of the representations, warranties, covenants, and indemnities hereunder, under the indemnification provisions of the other Loan Documents and under the Environmental Indemnity Agreement, shall survive the repayment in full of the Loan and the release of the liens evidencing or securing the Loan, and shall survive the transfer (by sale, foreclosure, conveyance in lieu of foreclosure, exercise of LCRA Termination Right or otherwise) of any or all right, title and interest in and to the Project to any party, whether or not an Affiliate of Borrower or Master Lessee. As stated in Article 13 below, Master Lessee has assumed certain of LCRA's representations, warranties, covenants and indemnities hereunder, and under the indemnification provisions of the other Loan Documents and such obligations of Master Lessee, including, specifically, Master Lessee's indemnification of LCRA in Section 13.2, shall survive as provided in this Section 11.24. Furthermore, upon the occurrence of a LCRA Termination Right exercised in accordance with the terms of this Agreement, LCRA shall be fully released from its obligations under this Agreement and the Loan Documents and no survival provision shall apply to LCRA.

Section 11.25 **WAIVER OF JURY TRIAL.** **TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER, MASTER LESSEE, ADMINISTRATIVE AGENT, AND EACH LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY OTHER LOAN DOCUMENT, OR THE ENVIRONMENTAL INDEMNITY AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY PARTY OR ANY EXERCISE BY ANY PARTY OF THEIR RESPECTIVE RIGHTS UNDER THE LOAN DOCUMENTS AND THE ENVIRONMENTAL INDEMNITY AGREEMENT OR IN ANY WAY RELATING TO THE LOAN OR THE PROJECT (INCLUDING ANY ACTION TO RESCIND OR CANCEL THIS AGREEMENT, AND ANY CLAIM OR DEFENSE ASSERTING THAT THIS AGREEMENT WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE). THIS WAIVER IS A MATERIAL INDUCEMENT FOR**

ADMINISTRATIVE AGENT AND EACH LENDER TO ENTER INTO THIS AGREEMENT.

Section 11.26 **Waiver of Punitive or Consequential Damages.** None of Administrative Agent, any Lender, nor Borrower or Master Lessee shall be responsible or liable to the other or to any other Person for any punitive, exemplary or consequential damages which may be alleged as a result of the Loan or the transaction contemplated hereby, including any breach or other default by any party hereto. Borrower and Master Lessee represent and warrant to Administrative Agent and each Lender that as of the Closing Date neither Borrower nor any other Borrower Party has any claims against Administrative Agent or any Lender in connection with the Loan.

Section 11.27 **Governing Law.** **UNLESS OTHERWISE NOTED THEREIN TO THE CONTRARY, THE LOAN DOCUMENTS AND THE ENVIRONMENTAL INDEMNITY AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES THEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS (WITHOUT GIVING EFFECT TO ILLINOIS' PRINCIPLES OF CONFLICTS OF LAW) AND APPLICABLE UNITED STATES FEDERAL LAW, EXCEPT FOR THOSE PROVISIONS IN THE LOAN DOCUMENTS AND THE ENVIRONMENTAL INDEMNITY AGREEMENT PERTAINING TO THE CREATION, PERFECTION, PRIORITY OR VALIDITY OF OR EXECUTION ON LIENS OR SECURITY INTERESTS ON PROPERTY LOCATED IN THE STATE WHERE THE PROJECT IS LOCATED, WHICH PROVISIONS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE PROJECT IS LOCATED AND APPLICABLE UNITED STATES FEDERAL LAW.**

Section 11.28 **Entire Agreement.** This Agreement, the other Loan Documents and the Environmental Indemnity Agreement embody the entire agreement and understanding between Administrative Agent, each Lender, Borrower and Master Lessee and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Loan Documents and the Environmental Indemnity Agreement may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties. If any conflict or inconsistency exists between any term sheet and this Agreement, any of the other Loan Documents, or the Environmental Indemnity Agreement, the terms of this Agreement, the other Loan Documents, and the Environmental Indemnity Agreement, as applicable, shall control.

Section 11.29 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.

Section 11.30 **Consents and Approvals.** To the extent that Administrative Agent, Lenders or Required Lenders provide any consent or approval as provided for in this Agreement, such consent shall be limited to the specific matter approved and shall NOT be construed to (a) relieve Borrower or Master Lessee from compliance with all of the other terms and obligations of this Agreement, or (b) constitute a consent to any further similar action (as to which a prospective consent or approval shall be required and may not necessarily be granted), or (c) constitute a consent to any other obligation to which any Lender may be a party.

Section 11.31 **Effectiveness of Facsimile Documents and Signatures.** The Loan Documents and Environmental Indemnity Agreement may be transmitted or signed by facsimile or by Electronic Transmission. The effectiveness of any such documents and signatures shall, subject to applicable law, have the same force and effect as manually signed originals and shall be binding on all parties to the Loan Documents and Environmental Indemnity Agreement, as applicable. Administrative Agent may also require that any such documents and signatures be confirmed by a manually signed original thereof; provided, however, that the failure to request or deliver the same shall not limit the effectiveness of any facsimile document or signature.

Section 11.32 **Venue.** EACH PARTY HERETO HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF COOK, STATE OF ILLINOIS AND IRREVOCABLY AGREES THAT, SUBJECT TO ADMINISTRATIVE AGENT'S ELECTION, ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS. EACH PARTY HERETO EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. BORROWER AND MASTER LESSEE HEREBY WAIVE PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREE THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON BORROWER AND MASTER LESSEE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO BORROWER OR MASTER LESSEE, AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE DEEMED COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

Section 11.33 **Important Information Regarding Procedures for Requesting Credit.** Each of Administrative Agent and Lenders hereby notifies the Borrower Parties that in order to comply with the Patriot Act, each Lender may be required to obtain, verify and record information that identifies Borrower, Master Lessee and each Guarantor, which information includes the name, address, tax identification number and other information regarding Borrower, Master Lessee and each Guarantor that will allow such Lender to identify Borrower, Master Lessee and each Guarantor in accordance with the Patriot Act. This notice is given in accordance with the requirements of the Patriot Act and is effective as to each Lender.

Section 11.34 **Method of Payment.** All amounts payable under this Agreement and the other Loan Documents must be paid by Borrower or Master Lessee in accordance with Section 2.6(c). Payments in the form of cash, money order, third party payment, cashier's check, a check drawn on a foreign bank or non-bank financial institution, or any form of payment other than those provided in the preceding sentence will not be accepted. All payments under this Agreement and the other Loan Documents made by Master Lessee on behalf of LCRA shall be to and for the credit of Borrower.

Section 11.35 **Non-Public Information; Confidentiality.** Borrower and Master Lessee authorize Administrative Agent and each Lender to disclose information about Borrower and any other Borrower Party that Administrative Agent or such Lender may at any time possess to any Affiliate of a Lender or Administrative Agent, whether such information was supplied by Borrower or Master Lessee or otherwise obtained by Administrative Agent or the Lender; provided

to the extent Administrative Agent or any Lender receives material non-public information hereunder concerning Borrower, the other Borrower Parties and their Affiliates, Administrative Agent and each Lender agrees to use such information in compliance with all relevant policies, procedures and contractual obligations and applicable Requirements of Law (including United States federal and state security laws and regulations). The parties acknowledge that LCRA is a public entity, that the Loan Documents were considered at a public meeting duly held for LCRA to approve and authorize the Loan, and that LCRA is subject to Missouri Sunshine Law, Chapter 610 of the Revised Statutes of Missouri, as amended, requirements concerning, among other things, requests for disclosure of public records.

Section 11.36 Post-Closing Obligations of Borrower. Notwithstanding the fact that Borrower has not satisfied certain of the conditions to the advance of the Loan proceeds as of the Closing Date, Lenders have agreed to advance the proceeds of the Loan to Borrower, subject to the satisfaction of the other conditions to funding contained herein and each of the requirements set forth in **Schedule 11.36** attached hereto (the “**Post-Closing Obligations**”). Borrower shall provide evidence reasonably satisfactory to Administrative Agent of the completion of the Post-Closing Obligations, all of which shall be performed in a manner satisfactory to Administrative Agent.

Section 11.37 Intentionally Omitted.

Section 11.38 Component Notes. Administrative Agent, without in any way limiting Administrative Agent’s other rights hereunder, in its sole and absolute discretion, shall have the right at any time to require Borrower to execute and deliver “component” notes (including senior and junior notes) in replacement of the Notes as evidence of the Loan, which notes may be paid in such order of priority as may be designated by Administrative Agent, provided that (i) the aggregate principal amount of such “component” notes shall equal the outstanding principal balance of the Loan immediately prior to the creation of such “component” notes, plus any committed but unfunded Loan proceeds, (ii) the weighted average interest rate of all such “component” notes shall on the date created equal the interest rate which was applicable to the Loan immediately prior to the creation of such “component” notes, (iii) the Debt Service on all such “component” notes shall on the date created equal the Debt Service which was due under the Loan immediately prior to the creation of such component notes and (iv) the other terms and provisions of each of the “component” notes shall be identical in substance and substantially similar in form to the Loan Documents. Borrower, at its cost and expense, shall cooperate with all reasonable requests of Administrative Agent in order to establish the “component” notes and shall execute and deliver such documents as shall reasonably be required by Administrative Agent in connection therewith, all in form and substance reasonably satisfactory to Administrative Agent and LCRA, including, without limitation, the severance of security documents if requested. In the event Borrower fails to execute and deliver such documents to Administrative Agent within thirty (30) days following such request by Administrative Agent, Borrower hereby absolutely and irrevocably appoints Administrative Agent 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 such transactions, Borrower ratifying all that such attorney shall do by virtue thereof.

Section 11.39 Waivers. No waiver of any provision of the Loan Documents or Environmental Indemnity Agreement shall be effective unless in writing and signed by the party

against whom enforcement is sought, provided that a written waiver signed by Administrative Agent on behalf of the Lenders shall be deemed to have been signed by the Lenders.

Section 11.40 **Amendment and Restatement**. This Agreement amends and restates in its entirety, that certain Amended and Restated Loan Agreement (the “**Prior Loan Agreement**”) dated as of October 16, 2015, by and among Borrower, Master Lessee, Administrative Agent and the Lenders party thereto, as previously amended. This Agreement is not a novation of the Prior Loan Agreement.

ARTICLE 12 **LIMITATIONS ON LIABILITY**

Section 12.1 Limitation on Liability.

(a) Subject to the qualifications below, neither Administrative Agent nor any Lender shall enforce the liability and obligation of Borrower to perform and observe the Obligations by any action or proceeding wherein a money judgment shall be sought against Borrower, except that Administrative Agent and the Lenders may bring a foreclosure action, an action for specific performance or any other appropriate action or proceeding to enable Administrative Agent and the Lenders to enforce and realize upon its interest under the Note, this Agreement, the Mortgage and the other Loan Documents, or in the Project, or any other Collateral given to Administrative Agent and the Lenders 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 Project (and not to assets of LCRA other than the Project) and in any other Collateral given to Administrative Agent and the Lenders to secure the Obligations, and Administrative Agent and each Lender, as applicable, by accepting the Note, this Agreement, the Mortgage and the other Loan Documents, shall not sue for, seek or demand any deficiency judgment against Borrower in any such action or proceeding under or by reason of or under or in connection with the Note, this Agreement, the Mortgage or the other Loan Documents.

(b) The provisions of this Section 12.1 shall not, however, (i) constitute a waiver, release or impairment of any Obligation evidenced or secured by any of the Loan Documents; (ii) impair the right of Administrative Agent or any Lender to name Borrower or Master Lessee as a party defendant in any action or suit for foreclosure and sale under the Mortgage; (iii) affect the validity or enforceability of any guaranty made in connection with the Loan or any of the rights and remedies of Administrative Agent or any Lender thereunder; (iv) impair the right of Administrative Agent or any Lender to obtain the appointment of a receiver; (v) impair the enforcement of the assignment of leases and rents contained in the Mortgage; (vi) constitute a prohibition against Administrative Agent or any Lender to commence any appropriate action or proceeding in order for Administrative Agent or any Lender to exercise its remedies against the Collateral; or (vii) constitute a waiver of the right of Administrative Agent or any Lender to enforce the liability and obligation of Borrower, subject to the provisions of Section 12.3, by money judgment or otherwise, to the extent of any Liability, which may be imposed upon, incurred by or awarded against Administrative Agent or any Lender or any Affiliate thereof as a result of, arising out of or in connection with (and Borrower, subject to the provisions of Section 12.3, shall be

personally liable for, and shall indemnify Administrative Agent and such Lender from, to the extent of such Liability) the following:

(A) any failure by Borrower or any Borrower Party after the occurrence and during the continuance of any Event of Default to apply any portion of the gross income from the Project at any time received by or payable to Borrower, Master Lessee or any Guarantor or any of their Affiliates to amounts due under the Loan or to customary operating expenses of the Project;

(B) commission of a criminal act by any Borrower Party, Guarantor or any Affiliate or agent of any Borrower Party or Guarantor (which agent is under the Control of such Borrower Party or such Guarantor) which results in the exercise by any Person of Forfeiture Rights with respect to the Project;

(C) the failure by Borrower or any other Borrower Party to apply any insurance proceeds and condemnation awards in accordance with the terms of the Loan Documents;

(D) any material misrepresentation by Borrower or any other Borrower Party made in or in connection with the Loan Documents or the Loan;

(E) Borrower's or Master Lessee's collection of rents more than one month in advance or entering into, modifying or canceling Leases in violation of this Agreement or any of the other Loan Documents;

(F) Borrower, Master Lessee, any Guarantor or any Affiliate of any of them contesting or in any way interfering with, directly or indirectly (collectively, a "**Contest**"), any foreclosure action or sale commenced by Administrative Agent or any Lender or with any other enforcement of Administrative Agent's or any Lender's rights, powers or remedies under any of the Loan Documents or under any document evidencing, securing or otherwise relating to any of the Security (whether by making any motion, bringing any counterclaim, claiming any defense, seeking any injunction or other restraint, commencing any action seeking to consolidate any such foreclosure or other enforcement with any other action, or otherwise) (except this clause (F) shall not apply if Borrower, Master Lessee, any Guarantor or such Affiliate successfully asserts a Contest and obtains a final non-appealable order as to same);

(G) Borrower's or Master Lessee's failure to turn over to Administrative Agent all Security Deposits upon Administrative Agent's demand following an Event of Default, except to the extent any such Security Deposits were applied in accordance with the terms and conditions of any of the Leases prior to the occurrence of such Event of Default;

(H) Borrower's or Master Lessee's failure to maintain insurance as required by this Agreement;

(I) Borrower's or Master Lessee's failure to pay any Taxes or assessments affecting the Project, in each case (1) to the extent that Borrower or Master Lessee failed to apply cash flow from the Project to do so, and (2) less any funds deposited by or on

behalf of Borrower in the Tax Impound which have not been used to pay such Taxes or assessments;

(J) damage or destruction to the Project caused by the intentional acts or omissions of any Borrower Party;

(K) Borrower's or Master Lessee's failure to perform its obligations under the Environmental Indemnity Agreement (recognizing that LCRA is not a party to the Environmental Indemnity Agreement and that LCRA has no obligations or liability thereunder);

(L) physical waste of the Project (excluding alterations made in good faith);

(M) the removal or disposal by Borrower or Master Lessee of any personal property from the Project in which Administrative Agent or the Lenders have a security interest in violation of the terms and conditions of the Loan Documents;

(N) the payment of any distributions by Borrower or Master Lessee in violation of Section 7.11;

(O) any fees paid by Borrower or Master Lessee to any Guarantor or any of their Affiliates, employees, managers or contractors after the occurrence and during the continuation of an Event of Default under the Loan Documents except as permitted by any Loan Document;

(P) Borrower's or Master Lessee's failure to pay amounts owed any Lender under a Secured Hedge Agreement;

(Q) the modification of any Consent Required Provision of the Major Lease without the prior written consent of Administrative Agent and the Required Lenders;

(R) Master Lessee's failure to deposit any revenues generated by Master Lessee or the Project into the Borrower's Account; or

(S) the amount by which the cost to restore the Project following a casualty exceeds insurance proceeds paid to Borrower, Master Lessee or Administrative Agent for restoration.

(c) Notwithstanding anything to the contrary in this Agreement, the Note or any of the Loan Documents, all of the Obligations shall be fully recourse to Borrower and Borrower shall be personally liable therefor, subject to the provisions of Section 12.3 with respect to LCRA, in the event of:

(i) any Transfer of the Project or any part thereof or any legal or beneficial interest therein, any Transfer of an interest in any Restricted Party in breach of any of the covenants in this Agreement or the Mortgage, or any Transfer resulting from the adoption of a "plan of division" or the filing of a "certificate of division";

(ii) Borrower's or Master Lessee failure to comply with the covenants in Section 5.17 hereof, but only if such failure results in the actual or substantive consolidation of Borrower's or Master Lessee's assets with the assets of another Person in any bankruptcy or insolvency proceeding;

(iii) the commission of fraud by Borrower or any other Borrower Party in connection with the Loan;

(iv) Borrower, Master Lessee or Guarantor files a voluntary petition under the Federal Bankruptcy Code or any other Federal or state bankruptcy or insolvency law;

(v) a Person, an Affiliate, officer, director, or representative which Controls any Borrower Party files, or joins in the filing of, an involuntary petition against Borrower or Master Lessee under the Federal Bankruptcy Code or any other Federal or state bankruptcy or insolvency law, or solicits or causes to be solicited petitioning creditors for any involuntary petition against Borrower or Master Lessee from any Person;

(vi) Borrower, Master Lessee or Guarantor files an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Federal Bankruptcy Code or any other Federal or state bankruptcy or insolvency law, or solicits or causes to be solicited petitioning creditors for any involuntary petition from any Person;

(vii) a Person, any Affiliate, officer, director, or representative which Controls Borrower or Master Lessee consents to or acquiesces in or joins in an application for the appointment of a custodian, receiver, trustee, or examiner for Borrower or Master Lessee or any portion of the Collateral (other than in connection with Administrative Agent taking such actions);

(viii) Borrower, Master Lessee or Guarantor 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;

(ix) the modification, termination or surrender of the Ground Lease or Easement Agreement without the prior written consent of Administrative Agent;

(x) either of the following without the prior written consent of Administrative Agent and the Required Lenders: (A) the termination or acceptance of a surrender of the Major Lease, or (B) if landlord's consent is required pursuant to the terms of a Major Lease, the consent to or acceptance by Borrower or Master Lessee of an assignment or sublease of the Major Lease;

(xi) the modification of the Mezzanine Loan Documents in violation of the Loan Documents or the Intercreditor Agreement without the prior written consent of Administrative Agent;

(xii) the modification of the Purchase Option without the prior written consent of Administrative Agent;

(xiii) Borrower or Master Lessee enters into any mezzanine financing transaction (other than the Mezzanine Loan Documents) without the prior written consent of Administrative Agent and Required Lenders;

(xiv) except in connection with the exercise of a LCRA Termination Right, the modification, termination or surrender of any of the Master Lease Documents without the prior written consent of Administrative Agent;

(xv) except in connection with the exercise of a LCRA Termination Right, the modification or termination of the LCRA Documents without the prior written consent of Administrative Agent;

(xvi) Master Lessee's failure to comply with the covenants in Section 7.24 or Section 7.25.

(d) Subject to the provisions of Section 12.3 with respect to LCRA, Borrower also shall be personally liable to Administrative Agent and the Lenders for any and all attorneys' fees and expenses and court costs incurred by Administrative Agent and the Lenders in enforcing this Section 12.1 or otherwise incurred by Administrative Agent or any Lender in connection with any of the foregoing matters, regardless whether such matters are legal or equitable in nature or arise under tort or contract law; provided, however, with respect to any suit or action brought by Administrative Agent or Lenders against Borrower, Borrower shall not be liable for such attorneys' fees, expenses and costs as to those matters for which Borrower is the prevailing party in such suit or action. The limitation on the personal liability of Borrower in this Section 12.1 shall not modify, diminish or discharge the personal liability of any Guarantor. Nothing herein shall be deemed to be a waiver of any right which Administrative Agent or any Lender may have under Sections 506(a), 506(b), 1111(b) or any other provision of the Federal Bankruptcy Code, as such sections may be amended, or corresponding or superseding sections of the Bankruptcy Amendments and Federal Judgeship Act of 1984, to file a claim for the full amount due to Administrative Agent and the Lenders under the Loan Documents or to require that all Collateral shall continue to secure the amounts due under the Loan Documents.

Section 12.2 Limitation on Liability of Administrative Agent's and Lender's Officers, Employees, etc. Any obligation or liability whatsoever of Administrative Agent or any Lender which may arise at any time under this Agreement, any other Loan Document, or the Environmental Indemnity Agreement shall be satisfied, if at all, out of Administrative Agent's or such Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the property of any of Administrative Agent's or such Lender's shareholders, directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 12.3 Specific Limitation on Liability of LCRA.

(a) To the extent of any conflict between the provisions of this Section 12.3 and the other provisions of this Agreement or any other Loan Document, the provisions of this Section 12.3 shall control.

(b) Notwithstanding any other provision herein to the contrary, at any time that LCRA constitutes “Borrower” hereunder, the obligations, liabilities and any amounts due and owing by LCRA pursuant to the provisions hereof or any other Loan Document (including, without limitation, any indemnification obligations) shall be nonrecourse as to LCRA. No provision, representation, covenant or agreement contained in this Agreement or any other Loan Document, or any obligation herein or therein imposed upon LCRA, or the breach thereof, shall constitute or give rise to or impose upon LCRA a pecuniary liability. No provision hereof or any other Loan Document shall be construed to impose a charge against the general credit of LCRA or any personal or pecuniary liability upon any commissioner, officer, agent or employee of LCRA. All covenants, obligations and agreements of LCRA contained in this Agreement and any other Loan Document shall be effective with respect to LCRA to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future commissioner, officer, agent or employee of LCRA in other than his or her official capacity, and no official executing this Agreement or any other Loan Document shall be liable personally for this Agreement or any other Loan Document or be subject to any personal liability or accountability by reason of the execution and delivery of this Agreement or any other Loan Document or by reason of the covenants, obligations or agreements of LCRA contained in this Agreement or any other Loan Document. No provision, covenant or agreement contained in this Agreement or any other Loan Document, or any obligation herein or therein imposed upon LCRA, or the breach thereof, shall constitute or give rise to or impose upon LCRA a pecuniary liability or a charge.

(c) Subject to and without limiting the non-recourse provisions of Section 12.3(b) concerning LCRA, this Section 12.3 shall not (i) constitute a waiver, release or impairment of any Obligation evidenced or secured by any of the Loan Documents; (ii) impair the right of Administrative Agent or any Lender to name LCRA or Master Lessee as a party defendant in any action or suit for foreclosure and sale under the Mortgage; (iii) affect the validity or enforceability of any guaranty made in connection with the Loan or any of the rights and remedies of Administrative Agent or any Lender thereunder; (iv) impair the right of Administrative Agent or any Lender to obtain the appointment of a receiver; (v) constitute a prohibition against Administrative Agent or any Lender to commence any appropriate action or proceeding in order for Administrative Agent or any Lender to exercise its remedies against the Project; (vi) constitute a waiver of the right of Administrative Agent or any Lender to enforce the liability and obligation of Master Lessee or any Borrower (other than LCRA) for amounts owed under Sections 12.1(b)-(d) or (vii) limit or affect in any way the liability or obligations of the Borrower Parties (other than LCRA) under the Loan Documents and the Environmental Indemnity Agreement.

ARTICLE 13 **MASTER LEASE**

Section 13.1 Performance by Master Lessee. Pursuant to the Master Lease, Master Lessee is obligated to perform certain obligations of LCRA as “Borrower” under this Agreement and the other Loan Documents. Accordingly, LCRA hereby authorizes and directs Master Lessee to perform all of the obligations and covenants of LCRA contained in this Agreement and the other Loan Documents (including, without limitation, indemnification obligations), other than LCRA’s obligation to pay the Loan pursuant to the terms and conditions of the Loan Documents. Master Lessee hereby agrees to perform such obligations and covenants on behalf of LCRA; recognizing,

however, that Master Lessee is not entitled to the benefits of Section 12.3 or any similar provision in any other Loan Document. Administrative Agent acknowledges and agrees to accept performance by Master Lessee of all obligations and covenants imposed upon LCRA pursuant to this Agreement and the other Loan Documents as though the same had been performed by LCRA. Notwithstanding anything to the contrary in this Agreement, the other Loan Documents or the Environmental Indemnity Agreement, Administrative Agent further acknowledges and agrees that LCRA is not a party to the Environmental Indemnity Agreement and that Administrative Agent and any Lender shall look solely to Master Lessee and Guarantor for performance of all obligations and covenants under the Environmental Indemnity Agreement and the survival of the same as provided in Section 11.24. Subject to the provisions of Section 12.3 hereof, nothing herein is intended, nor shall it be deemed to release LCRA of any of its representations, warranties, covenants or other obligations under this Agreement or the other Loan Documents.

Section 13.2 Representations, Warranties and Covenants of Master Lessee. Master Lessee covenants and agrees with Lenders and Administrative Agent as follows:

(a) Master Lessee (i) makes the representations, warranties and covenants set forth in the Sections and Articles noted below, (ii) agrees to indemnify and hold LCRA harmless as more particularly described in Section 13.4; and (iii) agrees to perform all the obligations and covenants set forth in the Sections and Articles noted below (specifically including, without limitation, all indemnification obligations and covenants), in each case under Section 13.2(a)(i) and Section 13.2(a)(iii) as if all references in such Sections and Articles to LCRA (or to LCRA in its capacity as “Borrower”) were references to Master Lessee (notwithstanding the fact that Master Lessee may also be referenced in such Sections and Articles or the fact that this Agreement may expressly state that LCRA is not liable under any such Section or Article, and recognizing in each instance that Master Lessee is not entitled to the benefits of Section 12.3):

Section 2.4 (Prepayment)	Article 6 (Financial Reporting)
Section 2.5 (Security, Establishment of Funds)	Article 7 (Covenants)
Section 2.8 (Capital Adequacy; Increase Cost; Illegality)	Section 9.3 (Administrative Agent's Right to Perform the Obligations)
Section 2.9 (Interest Rate Protection)	Article 10 (Administrative Agent)
Section 2.10 (Benchmark Replacement)	Section 11.5 (Indemnities)
Section 2.12 (Evidence of Debt)	
Section 2.13 (Substitution of Lenders)	Section 11.11 (Reimbursement of Expenses)
Section 2.14 (Pro Rata Treatment; Sharing of Payments)	
Section 2.15 (Loan Origination Fee)	Section 11.14 (Contest of Certain Claims)
Section 2.16 (Withholding Taxes)	Section 11.24 (Survival)
Section 2.18 (Defaulting Lenders)	
Article 3 (Insurance, Condemnation and Impounds)	Section 11.38 (Component Notes)
Article 4 (Leasing Matters)	Section 12.1(b)-(d) (Limitation on Liability)

Article 5 (Representations and Warranties)	Schedule 2.1 (Conditions to Advance of Loan Proceeds), Schedule 2.6 (Authorization for Direct Loan Payments (ACH Debits)), Schedule 6.2 (Compliance Certificate), Schedule 7.13 (Special Compliance Certificate), and Schedule 11.36 (Post Closing Obligations)

(b) Master Lessee’s obligations under this Section 13.2 and Section 13.4 shall survive the termination of this Agreement.

(c) Master Lessee agrees to perform each and every of the obligations and covenants of LCRA set forth in (i) this Agreement, other than LCRA’s obligation to pay the Loan pursuant to the terms and conditions of the Loan Documents (including, but not limited to, the certain specific provisions enumerated in Section 13.2(a) above), (ii) the other Loan Documents, and (iii) the Environmental Indemnity Agreement to the extent that an obligation or covenant thereunder may be made an obligation or covenant of LCRA despite the fact that LCRA is not a party to the Environmental Indemnity Agreement; recognizing, however, that Master Lessee is not entitled to the benefits of Section 12.3 or any similar provision in any other Loan Document or the Environmental Indemnity Agreement.

Section 13.3 Additional Covenants of Master Lessee.

(a) Conditions to Exercise of Rights. Master Lessee hereby waives any right it may now or hereafter have to require Administrative Agent (which term, for purposes of this Section 13.3, shall include Lenders), as a condition to the exercise of any remedy or other right against Master Lessee hereunder or under any other document executed by Master Lessee in connection with the Indebtedness: (i) to proceed against LCRA or any other Person, or against any other collateral assigned to Administrative Agent by LCRA or any other Person; (ii) to pursue any other right or remedy in Administrative Agent’s power; (iii) to give notice of the time, place or terms of any public or private sale of real or personal property collateral assigned to Administrative Agent by LCRA or any other Person (other than Master Lessee, as the case may be), or otherwise to comply with Sections 9.609 and 9.610 of the UCC (as modified or recodified from time to time) with respect to any such personal property collateral; or (iv) to make or give (except as otherwise expressly provided in Loan Documents and the Environmental Indemnity Agreement) any presentment, demand, protest, notice of dishonor, notice of protest, notice of intention to accelerate, notice of acceleration, or other demand or notice of any kind in connection with any Indebtedness or any collateral (other than the Project) for any Indebtedness.

(b) Defenses. Master Lessee hereby waives any defense it may now or hereafter have that relates to: (i) any disability or other defense of LCRA or any other Person; (ii) the cessation, from any cause other than full performance, of the obligations of LCRA or any other Person; (iii) the application of the proceeds of any Indebtedness, by LCRA or any other Person, for purposes other than the purposes represented to Master Lessee by LCRA or otherwise intended or understood by Master Lessee or LCRA; (iv) any act or omission by Administrative Agent which directly or indirectly results in or contributes to the release of LCRA or any other Person or any

collateral for any Indebtedness; (v) the unenforceability or invalidity of any collateral assignment or guaranty with respect to any Indebtedness, or the lack of perfection or continuing perfection or lack of priority of any lien (other than the lien of the Mortgage encumbering the Project) which secures any Indebtedness; (vi) any failure of Administrative Agent to marshal assets in favor of Master Lessee or any other Person; (vii) any modification of any Indebtedness, including any renewal, extension, acceleration or increase in interest rate; (viii) any and all rights and defenses arising out of an election of remedies by Administrative Agent, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, may have an adverse effect on Master Lessee's rights of subrogation and reimbursement against the principal; (ix) any law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (x) any failure of Administrative Agent to file or enforce a claim in any bankruptcy or other proceeding with respect to any Person; (xi) the election by Administrative Agent, in any bankruptcy proceeding of any Person, of the application or non-application of Section 1111(b)(2) of the Federal Bankruptcy Code; (xii) any extension of credit or the grant of any lien under Section 364 of the Federal Bankruptcy Code; (xiii) any use of cash collateral under Section 363 of the Federal Bankruptcy Code; or (xiv) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any Person. Master Lessee further waives any and all rights and defenses that Master Lessee may have because LCRA's debt is secured by real property; this means, among other things, that: (1) Administrative Agent may collect from Master Lessee without first foreclosing on any real or personal property collateral pledged by LCRA; (2) if Administrative Agent forecloses on any real property collateral pledged by LCRA, then (A) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (B) Administrative Agent may collect from Master Lessee even if Administrative Agent, by foreclosing on the real property collateral, has destroyed any right Master Lessee may have to collect from LCRA. The foregoing sentence is an unconditional and irrevocable waiver of any rights and defenses Master Lessee may have because LCRA's debt is secured by real property. Without limiting the generality of the foregoing or any other provision hereof, Master Lessee further expressly waives to the extent permitted by law any and all rights and defenses, including without limitation any rights of subrogation, reimbursement, indemnification and contribution, which might otherwise be available to Master Lessee under applicable law.

(c) Subrogation. Master Lessee hereby waives, until such time as all Indebtedness is fully performed: (i) any right of subrogation against LCRA that relates to any Indebtedness; (ii) any right to enforce any remedy Master Lessee may now or hereafter have against LCRA that relates to any Indebtedness; and (iii) any right to participate in any collateral now or hereafter assigned to Administrative Agent with respect to any Indebtedness.

(d) Borrower Information. Master Lessee warrants and agrees: (i) that Administrative Agent would not enter into this Agreement but for the Loan Documents and the Environmental Indemnity Agreement entered into by Master Lessee; (ii) that Master Lessee has not relied, nor will it rely, on any representations or warranties by Administrative Agent to Master Lessee with respect to the creditworthiness of LCRA or the prospects of repayment of any Indebtedness from sources other than the Project; (iii) that Master Lessee has established and/or will establish adequate means of obtaining from LCRA on a continuing basis financial and other information

pertaining to the business operations, if any, and financial condition of LCRA; (iv) that Master Lessee assumes full responsibility for keeping informed with respect to LCRA's business operations, if any, and financial condition; (v) that Administrative Agent shall have no duty to disclose or report to Master Lessee any information now or hereafter known to Administrative Agent with respect to LCRA, including, without limitation, any information relating to any of LCRA's business operations or financial condition; and (vi) that Master Lessee is familiar with the terms and conditions of the Loan Documents and the Environmental Indemnity Agreement and consents to all provisions thereof.

(e) Reinstatement of Lien. Administrative Agent's rights under this Article 13 with respect to Master Lessee shall be reinstated and revived with respect to any amount at any time paid on account of any Indebtedness which Administrative Agent is thereafter required to restore or return in connection with a bankruptcy, insolvency, reorganization or similar proceeding with respect to LCRA.

(f) Subordination. Until all of the Indebtedness has been fully paid and performed: (i) Master Lessee hereby agrees that all existing and future indebtedness and other obligations of LCRA to Master Lessee (collectively, the "**Master Lessee Subordinated Debt**") shall be and are hereby subordinated to all Indebtedness of LCRA, and the payment thereof is hereby deferred in right of payment to the prior payment and performance of all Indebtedness; (ii) Master Lessee shall not collect or receive any cash or non-cash payments on any Master Lessee Subordinated Debt or transfer all or any portion of the Master Lessee Subordinated Debt; and (iii) in the event that, notwithstanding the foregoing, any payment by, or distribution of assets of, LCRA with respect to any Master Lessee Subordinated Debt is received by Master Lessee, such payment or distribution shall be held in trust and immediately paid over to Administrative Agent, is hereby assigned to Administrative Agent as security for the Indebtedness, and shall be held by Administrative Agent in an interest bearing account until all Indebtedness has been fully paid and performed.

(g) Savings Clause. If the liability of Master Lessee under the Loan Documents or Environmental Indemnity Agreement with respect to the Indebtedness would, but for the application of this sentence, be unenforceable under applicable law, such liability shall be valid and enforceable to the maximum extent that would not cause such liability to be unenforceable under applicable law, and such liability shall be deemed to have been automatically amended accordingly at all times (notwithstanding any provisions in the Loan Documents and the Environmental Indemnity Agreement concerning the necessity of all agreements in writing).

(h) Lawfulness and Reasonableness. Master Lessee warrants that all of the waivers in this Section 13.3, the other Loan Documents and the Environmental Indemnity Agreement, are made with full knowledge of their significance, and of the fact that events giving rise to any defense or other benefit waived by Master Lessee may destroy or impair rights which Master Lessee would otherwise have against Administrative Agent, LCRA and other Persons, or against collateral. Master Lessee agrees that all such waivers are reasonable under the circumstances and further agrees that, if any such waiver is determined (by a court of competent jurisdiction) to be contrary to any law or public policy, the other waivers herein shall nonetheless remain in full force and effect.

(i) Enforceability. Master Lessee hereby acknowledges that: (i) the obligations undertaken by Master Lessee under the Loan Documents and the Environmental Indemnity Agreement are complex in nature, and (ii) numerous possible defenses to the enforceability of these obligations may presently exist and/or may arise hereafter, and (iii) as part of Administrative Agent's consideration for entering into this transaction, Administrative Agent has specifically bargained for the waiver and relinquishment by Master Lessee of all such defenses, and (iv) Master Lessee has had the opportunity to seek and receive legal advice from skilled legal counsel in the area of financial transactions of the type contemplated herein. Given all of the above, Master Lessee does hereby represent and confirm to Administrative Agent that Master Lessee is fully informed regarding, and that Master Lessee does thoroughly understand: (A) the nature of all such possible defenses, and (B) the circumstances under which such defenses may arise, and (C) the benefits which such defenses might confer upon Master Lessee, and (D) the legal consequences to Master Lessee of waiving such defenses. Master Lessee acknowledges that it has entered into the Loan Documents and the Environmental Indemnity Agreement with the intent that such Loan Documents and the Environmental Indemnity Agreement and all of the informed waivers herein and therein shall each and all be fully enforceable by Administrative Agent, and that Administrative Agent is induced to enter into this transaction in material reliance upon the presumed full enforceability thereof.

Section 13.4 Indemnification of LCRA by Master Lessee. Master Lessee shall indemnify LCRA and defend and save LCRA harmless from and against any and all Liens, taxes, special assessments, claims, judgments, penalties, fines, actions, damages, injuries, environmental remediation costs or enforcement actions, liabilities, court costs, and expenses of any kind and nature whatsoever (including reasonable out-of-pocket expenses, attorney's fees and other professional consultant fees) resulting, directly or indirectly, from (except to the extent the same results from the gross negligence or intentional misconduct of LCRA, its agents or employees) (a) any action or suit for foreclosure and sale or enforcement of other remedy under the Mortgage, this Agreement, or other Loan Document, (b) any claim, dispute, action, or proceeding relating, in whole or in part, to Master Lessee's performance or failure to perform all obligations, representations, warranties and covenants of LCRA that Master Lessee is obligated to perform under the Ground Lease, the Master Lease, the LCRA Documents, this Agreement, or any other Loan Document, (c) any claim, dispute, action, or proceeding between or among Administrative Agent, any Lender, any Borrower Party, any Loan Party Guarantor, or any Guarantor in connection with the Obligations, this Agreement, or any other Loan Document, (d) the enforcement or exercise of rights (including, without limitation, a LCRA Termination Right) or the performance or non-performance of obligations under, or any contest, claim, dispute, action, or proceeding in connection with, the Ground Lease, the Master Lease, the LCRA Documents, this Agreement, any other Loan Document, or the Project, (e) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Project, or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways, or (f) any use, nonuse or condition in, on or about the Project or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways.

EXECUTED as of the date first written above.

[SIGNATURE PAGES FOLLOW]

**SIGNATURE PAGE OF ADMINISTRATIVE AGENT
AND LENDER TO LOAN AGREEMENT**

CAPITAL ONE, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: Authorized Signatory

SIGNATURE PAGE OF BORROWER TO LOAN AGREEMENT

**LAND CLEARANCE FOR
REDEVELOPMENT AUTHORITY OF
KANSAS CITY, MISSOURI**, a public body
corporate and politic organized under the laws of
Missouri and the ordinances of the City of Kansas
City, Missouri

By: _____
Name: Daniel Moye
Title: Executive Director

ATTEST:

_____, Secretary

SIGNATURE PAGE OF MASTER LESSEE TO LOAN AGREEMENT

**HOSPITAL HILL MEDICAL OFFICE
BUILDING, LLC**, a Delaware limited liability
company

By: Hospital Hill Holding Company, LLC, a
Delaware limited liability company,
Manager

By: _____
Name: _____
Title: _____

EXHIBIT A

Description of Project

Address of Project:	2101 Charlotte Street, Kansas City, Missouri
Number of Rentable Square Feet	90,156
Number of On Site Parking Spaces:	Non-exclusive right to use parking facilities granted in Ground Lease Documents

Legal Description of Land:

PARCEL 1 (LEASEHOLD ESTATE AS TO LAND ONLY):

LOT 1 OF THE PLAT OF HOSPITAL HILL NORTH, BLOCK 2, RECORDED SEPTEMBER 28, 2015, AS DOCUMENT NO. 2015E0087282 IN PLAT BOOK 49, PAGE 82, IN THE RECORDS OF JACKSON COUNTY, MISSOURI.

PARCEL 2 (FEE SIMPLE ESTATE):

IMPROVEMENTS LOCATED ON PARCEL 1 SET FORTH ABOVE.

PARCEL 3 (NON-EXCLUSIVE EASEMENT ESTATE):

NONEXCLUSIVE EASEMENTS FOR VEHICULAR AND PEDESTRIAN INGRESS, EGRESS AND ACCESS, MAINTENANCE AND REPAIR AND ENCROACHMENT, PARKING, PEDESTRIAN CONNECTOR, TEMPORARY CONSTRUCTION, MAINTENANCE AND REPAIR, UTILITIES AND DRAINAGE CONTAINED IN EASEMENT AGREEMENT BY AND BETWEEN TRUMAN MEDICAL CENTER, INCORPORATED AND HOSPITAL HILL MEDICAL OFFICE BUILDING, LLC, DATED AS OF JULY 25, 2014, RECORDED ON JULY 30, 2014, AS DOCUMENT NO. 2014E0062554, AS AMENDED BY AMENDMENT TO HOSPITAL HILL DOCUMENTS DATED OCTOBER 14, 2015, ALL RECORDED IN THE RECORDS OF JACKSON COUNTY, MISSOURI, OVER AND ACROSS THE LAND MORE PARTICULARLY DESCRIBED THEREIN.

EXHIBIT B

Intentionally Omitted

EXHIBIT C

Loan Commitments

Lender's Name	Lender's Address for Notices	Lender's Loan Commitment	Lender's Pro Rata Share
Capital One, National Association	Capital One, National Association 77 West Wacker Drive, 10 th Floor Chicago, IL 60601 Attention: Dan Eppley, Senior Director Facsimile: (855) 544-4044 Reference: Landmark Kansas City MOB	\$37,500,000	100%
	Capital One, National Association 77 West Wacker Drive, 10 th Floor Chicago, IL 60601 Attention: Jeffrey M. Muchmore, Credit Executive Facsimile: (855) 332-1699 Reference: Landmark Kansas City MOB		
	Capital One, National Association 5804 Trailridge Drive Austin, TX 78731 Attention: Diana Pennington, Senior Director, Associate General Counsel Facsimile: (855) 438-1132 Reference: Landmark Kansas City MOB		

SCHEDULE 2.1

CONDITIONS TO ADVANCE OF LOAN PROCEEDS

The advance of the Loan proceeds shall be subject to the terms of the Loan Documents, and Administrative Agent's receipt, review, approval or confirmation of the following items set forth in this Schedule 2.1, at Borrower's cost and expense, each in form and content satisfactory to Administrative Agent in its sole discretion:

1. Loan Documents. The Loan Documents and Environmental Indemnity Agreement executed by Borrower, any other Borrower Party or Operator, as applicable.
2. Title Insurance Policy. An ALTA (or equivalent) mortgagee policy or policies of title insurance in the maximum amount of the Loan, with reinsurance and endorsements as Administrative Agent may require, containing no exceptions to title (printed or otherwise) which are unacceptable to Administrative Agent, and insuring that the Mortgage creates a first-priority Lien on the Project and related collateral (the "Title Policy").
3. Organizational and Authority Documents. Certified copies of all documents evidencing the formation, organization, valid existence, good standing, and due authorization of and for Borrower and each other Borrower Party for the execution, delivery, and performance of the Loan Documents and the Environmental Indemnity Agreement by Borrower and each other Borrower Party, as applicable.
4. Legal Opinions. Legal opinions issued by counsel for Borrower and each Borrower Party, opining as to the due organization, valid existence and good standing of Borrower and each other Borrower Party, and the due authorization, execution, delivery, enforceability and validity of the Loan Documents and Environmental Indemnity Agreement with respect to Borrower (except that LCRA's counsel's opinion is not required to contain any opinion as to the enforceability or validity of the Environmental Indemnity Agreement) and each other Borrower Party; that the Loan, as reflected in the Loan Documents, is not usurious; and as to such other matters as Administrative Agent and Administrative Agent's counsel reasonably may specify.
5. Searches. Current Uniform Commercial Code, tax, judgment lien and litigation searches for Borrower and each other Borrower Party, and the immediately preceding owners of the Project.
6. Insurance. Evidence of insurance as required by this Agreement, and conforming in all respects to the requirements of Administrative Agent.
7. Survey. An "as built" survey of the Project in a form approved by Administrative Agent (on behalf of itself and the Lenders) and the title insurer (collectively, the "Survey").

8. Property Condition Report. An engineering report or architect's certificate with respect to the Project, covering, among other matters, inspection of heating and cooling systems, roof and structural details and showing no failure of compliance with building plans and specifications, applicable Requirements of Law (including requirements of the Americans with Disabilities Act) and fire, safety and health standards (the "**Property Condition Report**," whether one or more). As requested by Administrative Agent, the Property Condition Report shall also include an assessment of the Project's tolerance for earthquake and seismic activity.
9. Environmental Reports. A Site Assessment (as defined in the Environmental Indemnity Agreement) in a form approved by Administrative Agent (on behalf of itself and the Lenders) for the Project.
10. Rent Roll. A current rent roll for the Project, certified by Master Lessee or the current owner of the Project. Such rent roll shall include such information as reasonably required by Administrative Agent.
11. Operating Agreements. A copy of each fully executed Operating Agreement in form and substance satisfactory to Administrative Agent, certified by Master Lessee as being true, correct and complete.
12. Tax and Insurance Impounds. Borrower's deposit with Administrative Agent of the amount required under this Agreement to impound for taxes and assessments, insurance premiums and to fund any other required escrows or reserves.
13. Compliance With Laws. Evidence that the Project and the operation thereof comply with all Requirements of Law, including that all requisite certificates of occupancy, building permits, and other licenses, certificates, approvals or consents required of any Governmental Authority have been issued without variance or condition and that there is no litigation, action, citation, injunctive proceedings, or like matter pending or threatened with respect to the validity of such matters. If title insurance with respect to the Project described in item 2 above does not include a Zoning 3.1 (with parking) endorsement because such an endorsement is not available in the state where the Project is located, then Borrower shall furnish to Administrative Agent a zoning letter from the applicable municipal agency with respect to the Project or a zoning report that verifies the zoning classification of the Project and the Project's compliance with such zoning classification (the "**Zoning Report**").
14. No Casualty or Condemnation. No condemnation or adverse zoning or usage change proceeding shall have occurred or shall have been threatened against Project; the Project shall not have suffered any significant damage by fire or other casualty which has not been repaired; no law, regulation, ordinance, moratorium, injunctive proceeding, restriction, litigation, action, citation or similar proceeding or matter shall have been enacted, adopted, or threatened by any Governmental Authority, which would have, in Administrative Agent's judgment, a material adverse effect on Borrower, any other Borrower Party or the Project.

15. Broker's Fees. All fees and commissions payable to real estate brokers, mortgage brokers, or any other brokers or lenders in connection with the Loan or the acquisition of the Project have been paid, such evidence to be accompanied by any waivers or indemnifications deemed necessary by Administrative Agent.
16. Costs and Expenses. Payment of Administrative Agent's and each Lender's costs and expenses in underwriting, documenting, and closing the transaction, including fees and expenses of Administrative Agent's and such Lender's inspecting engineers, consultants and counsel.
17. Representations and Warranties. The representations and warranties contained in this Agreement and in all other Loan Documents and Environmental Indemnity Agreement are true and correct.
18. No Defaults. No Potential Default or Event of Default or default shall have occurred or exist.
19. Appraisal. Administrative Agent shall obtain an appraisal report for the Project, in form and content acceptable to Administrative Agent, prepared by an independent MAI appraiser in accordance with the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") and the regulations promulgated pursuant to such act.
20. KYC Information.
 - (a) Upon the reasonable request of any Lender made at least ten (10) days prior to the Closing Date, Borrower or Master Lessee shall have provided to such Lender the documentation and other information so requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act, in each case at least five (5) days prior to the Closing Date.
 - (b) At least five (5) days prior to the Closing Date, if Borrower or Master Lessee qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, Borrower or Master Lessee shall deliver a Beneficial Ownership Certification in relation to Borrower.
21. Management. The Operators and any Operators' Agreements for the Project shall be satisfactory to Administrative Agent in its sole discretion.
22. Other Items. Administrative Agent and Lenders shall have received such other items as Administrative Agent and the Lenders may reasonably require.

SCHEDULE 2.3(a)

AMORTIZATION SCHEDULE

***TO BE ADDED**

SCHEDULE 2.6

AUTHORIZATION FOR DIRECT LOAN PAYMENTS (ACH Debits)

The undersigned (“Borrower”, whether one or more) hereby authorizes Capital One, National Association (the “Company”), to initiate electronic debits and credits (and/or corrections to previous entries) debit entries to the account (the “Account”) specified below, at the depository institution named below (the “Depository”), to debit the same to the Account. Borrower acknowledges that the origination of ACH transactions to the below account number comply with the provisions of the United States law.

Borrower Name:	Hospital Hill Medical Office Building LLC
Depository Name:	*TO BE PROVIDED
Branch Location Address:	330 East Kilbourn, Suite 150 Milwaukee, WI 53202
Transit/ABA Number:	*TO BE PROVIDED
Account Number:	*TO BE PROVIDED

The Company will credit FIDR #* [REDACTED] in the name(s) of Hospital Hill Medical Office Building LLC and Land Clearance for Redevelopment Authority of Kansas City, Missouri. The debits to the Account will be on the scheduled loan payment dates in the amounts of the scheduled loan payments, beginning with the next scheduled payment that is more than 15 business days from the Company’s receipt of this authorization form. Any scheduled payment currently due or due within 15 business days from the Company’s receipt of this form will not be debited.

Borrower understands this debit will be made on the loan’s payment date, as set forth in the loan documents, unless such payment date is a banking holiday or a weekend, when the payment will be made on the first business day after the payment date. The amount debited may vary due to adjustments in escrow, interest rates and interest installments, if applicable. If the required payment changes for any reason, this authorization will be automatically amended to authorize the debit of any amount equal to the new required payment.

This authority is to remain in full force and effect until the Company has received written or verbal notification from Borrower of its termination in such time and in such manner as to afford the Company and the Depository a reasonable opportunity to act on it. The Company has the right, but not the obligation, in its sole discretion, to terminate ACH Debits at any time after an ACH Debit is rejected by the Depository for any reason.

To render this Authorization effective, you must provide a voided check with your signed Authorization.

Add Signature Block and Date

SCHEDULE 5.1

Organization; Formation

- A. **Borrower’s Organizational Structure.** See attached chart.
- B. **Organizational Information.** (Borrower and each entity Borrower Party).

<u>Legal Name</u>	<u>State of Formation</u>	<u>Type of Entity</u>	<u>State Organization ID No.</u>	<u>Federal Tax ID No.</u>
Land Clearance for Redevelopment Authority of Kansas City, Missouri	Missouri	public body corporate and politic	N/A	44-6005869
Hospital Hill Medical Office Building, LLC	Delaware	limited liability company	5411151	30-0829591
Hospital Hill Holding Company LLC	Delaware	limited liability company	5494322	N/A
Landmark Healthcare Companies LLC	Delaware	limited liability company	4516049	26-0351273

- C. **Location Information.**

1.	Borrower:	
	a.	Chief Executive Office: 300 Wyandotte Street, Suite 400 Kansas City, Missouri 64105
	b.	Location of any prior Chief Executive Office (during last 5 years): N/A
	c.	Other Office Location: N/A
	d.	Location of Collateral: At the Project
2.	Master Lessee and Manager of Master Lessee:	
	a.	Chief Executive Office: 839 North Jefferson Street Suite 600 Milwaukee, Wisconsin 53202

	b.	Location of any prior Chief Executive Office (during last 5 years):	N/A
	c.	Other Office Location:	N/A
	d.	Location of Collateral:	At the Project
3.	Guarantor:		
	a.	Chief Executive Office:	839 North Jefferson Street Suite 600 Milwaukee, Wisconsin 53202
	b.	Location of any prior Chief Executive Office (during last 5 years):	N/A
	c.	Other Office Location:	N/A

ORGANIZATIONAL CHART

Follows This Page

SCHEDULE 6.2

COMPLIANCE CERTIFICATE

Compliance Certificate

Date: _____, _____

Capital One, National Association,
as Administrative Agent
77 West Wacker Drive, 10th Floor
Chicago, Illinois 60601
Attention: Credit Executive

Re: Compliance Certificate

Ladies and Gentlemen:

This certificate is given in accordance with Section 6.2 and Section 8.10 of the Loan Agreement dated December * , 2020 (as amended from time to time, the "**Loan Agreement**"), among Land Clearance for Redevelopment Authority of Kansas City, Missouri ("**Borrower**"), Hospital Hill Medical Office Building, LLC ("**Master Lessee**") and Capital One, National Association, as collateral agent and Administrative Agent for the lenders party thereto (in such capacity, the "**Administrative Agent**"). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement.

I hereby certify that:

1. I am the manager of the manager of Master Lessee, and
2. Based on my review of the financial statements delivered with this certificate in accordance with Section 6.1 of the Loan Agreement, such (a) financial statements fairly present the financial condition of Master Lessee as the dates of such financial statements in all material respects and (b) have been prepared in accordance with GAAP consistently applied. There have been no material changes in accounting policies or financial reporting practices of any Borrower Party since _____, 20__ [insert date of last year-end financial statement provided by Master Lessee], or, if any such change has occurred, I have attached a description of such changes.
3. I have reviewed the terms of the Loan Agreement and have made, or caused to be made under my supervision, a review in reasonable detail of the transactions and

condition of Master Lessee during the accounting period covered by such financial statements.

4. Such review has not disclosed the existence during or at the end of such accounting period, and I have no knowledge whether arising out of such review or otherwise, of the existence during or at the end of such accounting period or as of the date hereof, of any condition or event that constitutes a Potential Default or an Event of Default, or if any Potential Default or Event or Default existed or exists, attached as **Schedule 1** hereto is a description of the nature and period of existence thereof and what action Borrower and Master Lessee have taken or proposes to take with respect thereto.
5. Guarantor is in compliance with the covenants contained in the Recourse Guaranty Agreement constituting a part of the Loan Documents, except as set forth in **Schedule 4** attached hereto.
6. Except as noted on **Schedule 2** attached hereto, the undersigned has no knowledge of any federal or state tax liens having been filed against Borrower, Master Lessee, Guarantor, any Operator or all or any portion of the Project.
7. Except as noted on **Schedule 2** attached hereto, the undersigned has no knowledge of any failure of Master Lessee, Guarantor or any Operator to make required payments of withholding or other tax obligations of Master Lessee, Guarantor or Operator during the accounting period to which the attached statements pertain or any subsequent period.
8. If the Loan Agreement contemplates payments into a lockbox or restricted account, or directly to Administrative Agent, Borrower, Master Lessee and Operator (as required under the Loan Agreement or in the Loan Documents) have directed all of their account debtors, residents or lessees, as applicable, to make payments into such account or to Administrative Agent.
9. If the Loan Agreement contemplates a lien on the deposit accounts of Master Lessee in favor of Administrative Agent, **Schedule 3** attached hereto contains a complete and accurate statement of all deposit or investment accounts maintained by Master Lessee, Guarantor or any Operator.
10. With respect to the Project:
 - a. there are no current, pending or, to the undersigned's knowledge, threatened proceedings relating to a condemnation or other public taking of the Project;
 - b. the Project has suffered no casualty or other damage or loss of the type typically covered by hazard insurance;
 - c. all insurance required to be maintained by Borrower, Master Lessee, Guarantor or any Operator under the Loan Agreement is in force;

d. all real estate taxes or other assessments pertaining to the Project have been paid as and when due; and

e. the undersigned has no knowledge of any current, pending or threatened changes to the zoning classification or permitted uses of the Project; and

11. All of the other covenants (i.e., those not specifically described in the prior paragraphs above) set forth in the Loan Agreement and Loan Documents are fully performed and the representations and warranties set forth in the Loan Agreement and Loan Documents are and remain true, correct, and complete (except as set forth on Schedule 4 attached hereto).
12. Except as set forth in the Loan Agreement or on Schedule 5 attached hereto, neither Borrower nor Master Lessee have received (a) any notice of default under other obligations relating to the Project or otherwise material to Borrower's or Master Lessee's business, including any notices of violations of any laws, regulations, codes or ordinances; (b) any notice of threatened or pending legal, judicial or regulatory proceedings, including any dispute between Borrower or Master Lessee and any Governmental Authority, materially adversely affecting Borrower, Master Lessee, any Borrower Party or the Project; (c) any notice of Healthcare Investigations; (d) any notice of default or termination given or made to any Operator by Borrower or Master Lessee or received from any Operator; and (e) any notice of default or termination under any license or permit necessary for the operation of the Project in the manner required by the Loan Agreement. If any such notices or Healthcare Investigations have been received or commenced, they are listed on Schedule 5 and Master Lessee has provided (or are providing concurrently with this Certificate) Administrative Agent with copies of such notices and relevant materials referred to herein.
13. The calculations set forth on Schedule 6 have been made to determine Borrower's and Master Lessee's compliance with Section 7.13 of the Loan Agreement, and to determine Guarantor's compliance with Section 5.3 of the Recourse Guaranty Agreement and of the Payment Guaranty, which calculations are true, correct, and complete.

The forgoing certification and computations are made as of _____, 20__ and delivered this ____ day of _____, 20__.

Landmark Healthcare Companies LLC ("**Guarantor**") hereby certifies that Guarantor is in compliance with the covenants contained in the Recourse Guaranty Agreement and the Payment Guaranty constituting a part of the Loan Documents except as set forth in Schedule 4 attached hereto.

Sincerely,

**HOSPITAL HILL MEDICAL OFFICE
BUILDING, LLC**, a Delaware limited liability
company

By: Hospital Hill Holding Company, LLC, a
Delaware limited liability company,
Manager

By: _____
Name: _____
Title: _____

GUARANTOR

**LANDMARK HEALTHCARE COMPANIES
LLC**, a Delaware limited liability company

By: _____
Name: _____
Title: _____

SCHEDULE 1

**Description of Defaults or Potential
Defaults and Cures Being Undertaken**

SCHEDULE 2

Tax Liens or Withholding Obligations

SCHEDULE 3

List of all Deposit Accounts

SCHEDULE 4

Exceptions to Covenant Compliance

SCHEDULE 5

Schedule of Notices of Default, Litigation, etc.

SCHEDULE 6

Financial Covenant Analysis

As of: _____, 20__

A. <u>ADJUSTED NET OPERATING INCOME:</u>	
(1) Projected Rental Revenue (3-month period):	(1) \$ _____
(2) Revenue In Place Adjustment (3-month period):	(2) \$ _____
(3) Adjusted Revenue ((Line 1 + Line 2) x 4):	(3) \$ _____
(4) Adjusted Expenses (prior 12-month period):	(4) \$ _____
(5) Adjusted Net Operating Income (Line 3 – Line 4):	(5) \$ _____
B. <u>PROJECT YIELD:</u>	
(1) Outstanding principal balance of Loan (after requested disbursement):	(1) \$ _____
(2) Calculated Project Yield:	(2) _____
(3) Required Project Yield:	(3) <input type="checkbox"/> 6.85% <input type="checkbox"/> 7.35%
(4) In Compliance:	(4) <input type="checkbox"/> Yes <input type="checkbox"/> No
C. <u>GUARANTORS' AGGREGATE NET WORTH:</u>	
(1) Required:	(1) \$*50,000,000
(2) Actual:	(2) \$ _____
(3) In Compliance:	(3) <input type="checkbox"/> Yes <input type="checkbox"/> No

SCHEDULE 7.13

FORM OF SPECIAL COMPLIANCE CERTIFICATE

Special Compliance Certificate

Date: _____, _____

Capital One, National Association
as Administrative Agent
77 West Wacker Drive, 10th Floor
Chicago, Illinois 60601
Attention: Credit Executive

Re: Special Compliance Certificate

Ladies and Gentlemen:

This certificate is given in accordance with Section 7.13 of the Loan Agreement dated December *****, 2020 (as amended from time to time, the "**Loan Agreement**"), among Land Clearance for Redevelopment Authority of Kansas City, Missouri ("**Borrower**"), Hospital Hill Medical Office Building, LLC ("**Master Lessee**") and Capital One, National Association, as collateral agent and Administrative Agent for the lenders party thereto (in such capacity, the "**Administrative Agent**"). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement.

I hereby certify that:

1. I am the manager of the manager of Master Lessee.
2. Based on my review of the financial statements delivered with this certificate in accordance with Section 7.13 of the Loan Agreement, such financial statements (a) fairly present the financial condition of Master Lessee as the dates of such financial statements in all material respects and (b) have been prepared in accordance with GAAP consistently applied. There have been no material changes in accounting policies or financial reporting practices of any Borrower Party since _____, 20__ [insert date of last year-end financial statement provided by Master Lessee], or, if any such change has occurred, I have attached a description of such changes.
3. Attached as **Schedule 1** hereto is true, complete and correct calculation of the Excess Cash Flow for the following month: _____. Master Lessee has caused an amount equal to such Excess Cash Flow to be deposited into the Project Yield Fund.
4. As of the date of this Special Compliance Certificate, no condition or event that constitutes a Potential Default or an Event of Default is in existence, or if any Potential Default or

Event or Default existed or exists, the following is a description of the nature and period of existence thereof and what action Master Lessee has taken or proposes to take with respect thereto: _____.

The forgoing certification and computations are made as of _____, 20__ and delivered this ____ day of _____, 20__.

Sincerely,

**HOSPITAL HILL MEDICAL OFFICE
BUILDING, LLC**, a Delaware limited liability
company

By: Hospital Hill Holding Company, LLC, a
Delaware limited liability company,
Manager

By: _____
Name: _____
Title: _____

Schedule 1

Calculation of Excess Cash Flow

SCHEDULE 11.36

POST-CLOSING OBLIGATIONS

<u>Description of Post-Closing Obligation</u>	<u>Required Completion Date</u>
*TBD	