

Fill in this information to identify the case:Debtor Laguna Reserve Apts Investor LLCUnited States Bankruptcy Court for the: _____ District of New Jersey
(State)Case number 25-18643**Modified Official Form 410
Proof of Claim****04/25**

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Cleveland International Fund - NRP West Edge, Ltd</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? See summary page Federal Rule of Bankruptcy Procedure (FRBP) 2002(g) Contact phone <u>419- 874-6859</u> Contact email <u>See summary page</u> Uniform claim identifier (if you use one): _____	Where should payments to the creditor be sent? (if different) Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	\$ <u>4,814,143.70</u> Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>money loaned</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

☐ Up to \$3,800* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$17,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/28 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(3) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/10/2025
MM / DD / YYYY

/s/Patricia B. Fugee
Signature

Print the name of the person who is completing and signing this claim:

Name Patricia B. Fugee
First name Middle name Last name

Title Partner

Company FisherBroyles, LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



Verita (KCC) ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (866) 523-2941 | International 001-310-823-9000

Debtor: 25-18643 - Laguna Reserve Apts Investor LLC District: District of New Jersey, Trenton Division		
Creditor: Cleveland International Fund – NRP West Edge, Ltd 27100 Oakmead Dr., #306 Perrysburg, Ohio, 43551 United States Phone: 419- 874-6859 Phone 2: Fax: 419-550-1515 Email: patricia.fugee@fisherbroyles.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: money loaned	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 4,814,143.70	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Patricia B. Fugee on 10-Sep-2025 2:41:31 p.m. Pacific Time Title: Partner Company: FisherBroyles, LLP		

Exhibit A to Proof of Claim: In re Laguna Reserve Apts Investor LLC

Cleveland International Fund – NRP West Edge, Ltd.

Pursuant to the *Final Order (I) Authorizing the Debtors to Obtain PostPetition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* (docket no. 251), the claim of Cleveland International Fund – NRP West Edge, Ltd. (“CIF”), was stipulated as allowed and the mortgage was determined to be valid, subject to the terms thereof. This Claim is filed out of an abundance of caution.

Amount due:

Principal	\$4,500,000.00	
Pre -Interest	\$22,191.75	May 1 to 18, 2025
Post-Interest	\$53,013.70	May 19 through June 30, 2025
Deferred Interest	\$104,547.94	Through June 30, 2025
Legal	\$187,404.15	All bills regarding this matter

Total as of 9-1-2025: **\$4,814,143.70**

CREDIT AGREEMENT

CLEVELAND INTERNATIONAL FUND –

NRP WEST EDGE, LTD.

an Ohio limited liability company

AND

LAGUNA RESERVE APTS INVESTOR LLC

a Delaware limited liability company

\$5,000,000.00

April 25, 2023

CREDIT AGREEMENT

This Credit Agreement (“Agreement”), dated April 25, 2023, is by and between LAGUNA RESERVE APTS INVESTOR LLC, a Delaware limited liability company (“Borrower”), and CLEVELAND INTERNATIONAL FUND – NRP WEST EDGE, LTD., an Ohio limited liability company (together with its successors and assigns, “Lender” or “CIF”).

R E C I T A L S:

- A. CIF is a member of Borrower, holding the single Class B Unit issued by Borrower;
- B. Borrower is the sole member of RH Lakewind East LLC, a member-managed Delaware limited liability company (“Lakewind”);
- C. Lakewind is the sole owner of Laguna Reserve Apartments, a 348-unit apartment complex located at 5131 Bundy Road, New Orleans, Louisiana 70127 (the “Project”);
- D. Guarantor is the sole beneficial owner of Borrower;
- E. Borrower has requested a loan from CIF in the amount of up to Five Million Dollars (\$5,000,000.00) (the “Loan”) to allow for distribution of equity from the Project to Guarantor; and
- G. CIF is willing to provide the Loan to Borrower, subject to the terms and conditions contained in this Agreement.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

1.1. DEFINED TERMS. The following capitalized terms generally used in this Agreement will have the meanings defined or referenced below. Certain other capitalized terms used only in specific sections of this Agreement are defined in such sections.

“ADA” means the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq. as now or hereafter amended or modified.

“Affiliate” means, with respect to any Person, (a) in the case of any such Person which is a partnership or limited liability company, any partner or member in such partnership or limited liability company, respectively, (b) any other Person which is directly or indirectly Controlled by, Controls or is under common Control with such Person or one or more of the Persons referred to in the preceding clause (a), (c) any other Person who is an officer, director, trustee or employee of, or partner in, such Person or any Person referred to in the preceding clauses (a) and (b), (d) any other Person who is a member of the immediate family of such Person or of any Person referred to in the preceding clauses (a) through (c), and (e) any other Person that is a trust solely for the benefit of one or more Persons referred to in clause (d) and of which such Person is sole trustee;

provided, however, in no event will Lender or any of its affiliates be an Affiliate of Borrower. The Affiliates of a Person will include any officer or director of such Person.

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

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978 (11 U.S.C. § 101-1330) as now or hereafter amended or recodified.

“Borrower” means Laguna Reserve Apts Investor LLC, a Delaware limited liability company.

“Business Day” means a day of the week (but not a Saturday, Sunday, or holiday) on which the offices of national banks in Cleveland, Ohio are open to the public for carrying on substantially all business. Unless specifically referenced in this Agreement as a Business Day, all references to “days” will be to calendar days.

“Closing” means the date on which CIF funds the Loan to Borrower.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or by contract or otherwise.

“Default” has the meaning ascribed to such term in Section 9.1.

“Disbursement” means any delivery of funds from Lender to or for the benefit of Borrower pursuant to the terms of this Agreement.

“EB-5 Program” means the immigrant investor program created by Section 610 of Public Law 102-395 (October 6, 1992), as amended.

“Environmental Site Assessment” means, collectively, each Phase I and Phase II, if any, environmental assessment issued to Lakewind or any Lakewind Lender with respect to the Project.

“Guarantor” means Mark Silber, an individual, together with any other Person now or hereafter executing the Guaranty.

“Hazardous Materials” has the meaning ascribed to such term in Section 6.1(a).

“Hazardous Materials Claims” will have the meaning ascribed to it in Section 6.1(c).

“Hazardous Materials Laws” will have the meaning ascribed to such term in Section 6.1(b).

“Indemnified Parties” will have the meaning given in Section 11.1.

“Indemnitor” means Borrower and any other Person or entity who (or which) in any manner is or becomes obligated to Lender under any indemnity now or hereafter executed in connection with the Loan (collectively or severally as the context thereof may suggest or require).

“Lakewind Lender” means a creditor with respect to debt evidenced by a note or similar instrument executed by Lakewind or secured by a lien or security interest in Lakewind or the Project.

“Lakewind Loan Documents” means any documents executed in favor of a Lakewind Lender by Borrower, Lakewind, Guarantor, or any Affiliate of any of the foregoing.

“Lender” means Cleveland International Fund – NRP West Edge, Ltd., an Ohio limited liability company.

“Loan” will have the meaning given in Recital D hereof.

“Loan Amount” means an amount that is (a) absent the existence of a Default or Potential Default, will initially not be less than Four Million Five Hundred Thousand Dollars (\$4,500,000.00), and (b) no greater than Five Million and 00/100 Dollars (\$5,000,000.00).

“Loan Documents” means those documents, as hereafter amended, restated, supplemented, replaced, or otherwise modified from time to time, listed in Exhibit A as Loan Documents and any other documents or instruments executed in connection herewith as deemed necessary by Lender.

“Material Adverse Change” means a material adverse change in (a) the business, operations, condition (financial or otherwise), or prospects of the Borrower or the Project; (b) the ability of the Borrower to perform any of its payment or other obligations under this Agreement or any other Loan Document to which it is a party; (c) the legality, validity, or enforceability of the obligations of Borrower under this Agreement or any other Loan Document to which it is a party; or (d) Lender’s ability to exercise its rights and remedies with respect to, or otherwise realize upon, is rights under Borrower’s Organizational Documents or any other security for the Loan.

“Material Adverse Effect” means, with respect to any Person other than Lender, a material adverse effect on its business, operations, condition (financial or otherwise), or prospects, its ability to perform any of its payment or other obligations under this Agreement or any other Loan Document to which it is a party, the legality, validity, or enforceability of its obligations under this Agreement or any other Loan Document to which it is a party, or Lender’s ability to exercise its rights and remedies with respect to, or otherwise realize upon, its rights under Borrower’s Organizational Documents or any other security for the Loan.

“Maturity Date” means, absent Default and acceleration, the third anniversary of Closing.

“Note” means that certain Promissory Note dated as of the date hereof in a principal amount equal to the Loan Amount, executed by Borrower and payable to the order of Lender, as the same may be amended, restated supplemented, replaced, or otherwise modified from time to time.

“Organizational Documents” means, for any entity, its constituent or organizational documents, including: (a) in the case of any partnership, trust or other form of business entity, the partnership, or other applicable agreement of formation and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation with the secretary of state or other department in the state of its formation, in each case as amended from time to time; (b) in the case of any limited liability company, the articles or certificate of formation and its operating agreement or limited liability company agreement; and (c) in the case of a corporation, the certificate or articles of incorporation and its bylaws.

“Other Related Documents” means those documents, as hereafter amended, restated, supplemented, replaced, or otherwise modified from time to time, listed in Exhibit A as Other Related Documents.

“Participant” will have the meaning ascribed to such term in Section 11.10.

“Permitted Liens” means any ad valorem real estate taxes and assessments which are a lien on the Project but are not then due and payable, any mortgages or other instruments filed against the Project to secure a Permitted Loan, any easements, covenants, restrictions and other instruments of record which have been recorded against the Project prior to the date hereof, any liens which are being contested by Borrower or Lakewind in good faith pursuant to appropriate legal proceedings, and any other matters that would be shown on a title report or title commitment for the Project.

“Permitted Loan” means (a) any indebtedness of Borrower or Lakewind existing prior to Closing that is evidenced by a note and disclosed to Lender prior to Closing, (b) a first mortgage loan to Lakewind from a recognized commercial lender reasonably acceptable to Lender (with Lender’s approval of such lender not to be unreasonably withheld, conditioned or delayed) made after Closing that (i) is in a principal amount not to exceed eighty percent (80%) of the value of the Project when made as determined by an independent, MAI certified appraiser acceptable to such lender, (ii) does not have a Material Adverse Effect on Borrower’s ability to make its payment obligations under the Loan Documents, (iii) is evidenced by Lakewind Loan Documents which, (A) absent a default under such Lakewind Loan Documents which continues beyond the expiration of any applicable grace and/or notice and cure period, do not prohibit Lakewind from making distributions to Borrower in amounts sufficient to allow Borrower to make payment under the Loan Documents, (B) do not include a general repayment guaranty from Guarantor (as opposed to a customary non-recourse carveout guaranty) or prohibit Lender from receiving payment from Guarantor, (C) exclude a Default under the Loan Documents as an event of default, (D) exclude Lender’s exercise of any rights under Borrower’s or Lakewind’s Organizational Documents as an event of default, and (E) contain single purpose entity covenants that are customary or otherwise reasonable for a commercial mortgage loan on a multi-family residential property, and (iv) is incurred when no Default exists under the Loan Documents, or (c) any other mortgage loan to Lakewind from a recognized commercial lender reasonably acceptable to Lender, the terms of which are approved by Lender (with Lender’s approval of each of such lender and the terms of such loan not to be unreasonably withheld, conditioned or delayed).

“Person” means an individual, corporation, partnership, trust, association, company, limited liability company, partnership, governmental agency, or any other entity.

“Potential Default” means a Default that would exist but for the passage of time.

“Prohibited Property Transfer” will have the meaning ascribed to such term in Section 10.1.

“Project” has the meaning ascribed to such term in Recital C.

“Transfer” means any sale, installment sale, exchange, mortgage, pledge, hypothecation, assignment, encumbrance, or other transfer, conveyance, or disposition, whether voluntarily,

involuntarily, or by operation of law or otherwise, and includes any change in Control of a Person owning the subject property.

“USCIS” means the U.S. Citizenship and Immigration Services, or any successor governmental agency.

1.2. EXHIBITS INCORPORATED. All exhibits, schedules, and other items attached hereto are incorporated into this Agreement by such attachment for all purposes.

ARTICLE 2. THE LOAN

2.1. LOAN. By and subject to the terms of this Agreement, Lender agrees to lend to Borrower, and Borrower agrees to borrow from Lender, the Loan Amount as evidenced by the Note. Lender’s initial Loan disbursement following Closing will be not less than Four Million Five Hundred Thousand and 00/100 Dollars (\$4,500,000.00). In the event that Lender’s initial disbursement of proceeds of the Loan be less than Five Million and 00/100 Dollars (\$5,000,000.00), then from and after the date of Closing, Lender may, upon written notice to Borrower, make additional distributions of proceeds of the Loan to Borrower in amounts not to exceed Five Hundred Thousand and 00/100 Dollars (\$500,000.00) in the aggregate. Borrower will use the proceeds of the Loan to fund a distribution of Guarantor’s equity to Guarantor.

2.2. INTEREST.

(a) Current Interest. Absent the existence of any Default, the current rate of interest (the “Current Interest Rate”) will be equal to seven percent (7.00%) per annum. The Current Interest Rate will accrue monthly in arrears against so much of the principal balance of the Loan as may then be outstanding. Interest accruing at the Current Interest Rate will be computed based on a 365-day year and the actual number of days the applicable principal balance is outstanding. Consecutive monthly installments of all unpaid interest accrued at the Current Interest Rate (“Current Interest”) will be payable on the first day of each calendar month without presentment, demand, protest, or notice of any kind, all of which Borrower expressly waives, commencing on the first day of the calendar month immediately following the calendar month in which the Closing Date occurs (provided that if such date is not a Business Day, payment will be due on the next Business Day).

(b) Deferred Interest. In addition to Current Interest, the outstanding principal balance of the Loan will accrue interest from the date of issuance of the Note at the rate of three percent (3.00%) per annum (the “Deferred Interest Rate”), which Deferred Interest Rate will accrue monthly in arrears against so much of the principal balance of the Loan as may then be outstanding (as accrued, the “Deferred Interest”). Interest accruing at the Deferred Interest Rate will be computed based on a 365-day year and the actual number of days the applicable principal balance is outstanding. If accrued Deferred Interest is not paid on the first day of the month following the month for which such Deferred Interest accrues, such Deferred Interest will be capitalized and added to the outstanding principal balance of the Loan and thereafter accrue interest as provided in this Section 2.2. Notwithstanding the foregoing, Borrower will be required to pay Deferred Interest to Lender monthly in arrears unless and until Lakewind becomes obligated to make

concurrent payments against a Permitted Loan representing not less than sixty percent (60%) of the value of the Project incurred after Closing.

(c) **Default Interest.** So long as a Default has occurred and is continuing, at the election of Lender the Current Interest Rate will increase by the lesser of (i) four percent (4.00%) per annum, or (ii) the maximum amount permitted under applicable law (the “Default Rate”).

2.3. REPAYMENT. The outstanding principal balance of the Loan together with all accrued but unpaid Current Interest and fees then outstanding under this Agreement, the Note, and the Loan Documents will be payable in full on the Maturity Date, whether by the passage of time or Default and acceleration.

2.4. LOAN FEE. Waived by Lender.

2.5. LOAN DOCUMENTS. Concurrently with the delivery of this Agreement, Borrower will execute and deliver to Lender each of the documents described in Exhibit A.

2.6. PREPAYMENT. Borrower may not prepay any principal or interest prior to the passage of twenty-four (24) months following Closing without Lender’s consent, which consent Lender may withhold for any reason or no reason, in Lender’s sole discretion. Beginning on the date that is twenty-four (24) months following the date on which Closing occurs, Borrower may prepay all of the Loan Amount then outstanding or a portion equal to the lesser of (a) Five Hundred Thousand Dollars (\$500,000.0) or (b) the outstanding principal balance of the Loan, provided that Borrower first (x) pays any Current Interest then accrued and outstanding, (y) gives Lender written notice of the prepayment, and (z) pays Lender a prepayment fee equal to two percent (2.00%) of the principal amount prepaid concurrently with any prepayment (the “Prepayment Fee”).

2.7. CREDIT FOR PAYMENTS. Any payment received by Lender will be credited as of the Business Day received, provided such payment is received by Lender no later than 3:00 PM in Cleveland, Ohio, and constitutes immediately available funds. Any payment received after 3:00 PM or which does not constitute immediately available funds will be credited to the next Business Day when such funds become unconditionally and immediately available to Lender.

2.8. LOAN ACCOUNT. Lender will maintain, in accordance with its customary procedures, a loan account (“Loan Account”) in the name of Borrower in which Lender will record, among other things, the date and amount of each Disbursement made by Lender and the date and amount of each payment in respect thereof; provided, however, the failure by Lender to record the date and amount of any Disbursement will not adversely affect Lender’s rights under the Loan Documents. Lender’s Loan Account will be deemed accurate absent manifest error.

ARTICLE 3. CONDITIONS PRECEDENT TO CLOSING

Lender will not be obligated to close the Loan unless and until the following conditions have been satisfied or waived by Lender:

3.1. LOAN DOCUMENTS. Borrower will have executed and delivered the Loan Documents to Lender.

3.2. CLOSING COSTS. Borrower will have paid all closing costs payable to Lender under this Agreement as generally described in Section 7.1 hereof.

3.3. FINANCIAL STATEMENTS. Lender will have received current financial statements for Borrower and Guarantor. Said financial statements must be certified by Borrower or Guarantor, as applicable, to be true, correct and complete in all material respects.

3.4. PROJECT OCCUPANCY. Lender will have received reasonably satisfactory evidence that the Project had an occupancy rate of seventy percent (70%) or better during the preceding three (3) calendar months.

3.5. ORGANIZATIONAL DOCUMENTS.

(a) Lakewind's LLC agreement will be in a form reasonably acceptable to Lender, providing that, among other things, Borrower in its capacity as Lakewind's sole member will have the exclusive authority to manage Lakewind's affairs; and

(b) Borrower's LLC agreement will be in a form reasonably acceptable to Lender, providing for, among other things:

(i) a separate class of membership to be held solely by Lender ("Lender's Membership Interest") with the right to take certain actions with respect to Borrower's management during the continuance of a Default, including but not limited to the right to cause Borrower to, among other things:

(A) sell some or all of Borrower's assets and use the proceeds to repay the Loan;

(B) cause Lakewind to sell some or all of its assets and make distribution of the proceeds to Borrower to repay the Loan; and

(C) cause Lakewind to replace the Project's management or otherwise take steps deemed commercially reasonable by Lender to cure the Default;

(ii) a requirement that Borrower cause Lakewind to make periodic distributions of cash net of Project operating expenses and debt service payments scheduled in any Lakewind Loan Documents sufficient to allow Borrower to satisfy its scheduled and anticipated obligations and expenses;

(iii) a requirement that Borrower obtain Lender's consent before:

(A) executing any loan documents or amendments thereto, making any payment except as required under such loan documents, or incurring of any additional indebtedness; provided, however, that Lender shall not unreasonably withhold, condition or delay such consent in connection with the execution of any such loan documents or the incurring of any such additional indebtedness in connection with a loan that satisfies the

conditions set forth in subparagraphs (a) or (b) of the definition of Permitted Loan;

(B) initiating any material litigation, admitting insolvency, granting a judgment, or filing a petition of bankruptcy or any other similar action related to protection from creditors;

(C) admitting any additional members (except that Borrower may admit additional members so long as, following such admission, Guarantor continues to own at least fifty-one percent (51%) of the direct or indirect ownership interests in Borrower and Control Borrower) or amending its Organizational Documents;

(D) selling or transferring any of its assets outside the ordinary course of business (except in connection with a sale of the Project pursuant to which the Loan is repaid in full) or granting a lien upon or security interest in such assets; provided, however, that Lender shall not unreasonably withhold, condition or delay such consent in connection with the granting of any lien upon or security interest in the assets of Lakewind in connection with a loan that satisfies the conditions set forth in subparagraphs (a) or (b) of the definition of Permitted Loan; or

(E) permitting Lakewind to do any of the foregoing, provided that Borrower may permit Lakewind to (1) initiate litigation to enforce Lakewind's rights against tenants of the Project (including the right to evict), and (2) incur unsecured trade and operational debt incurred by Lakewind with trade creditors in the ordinary course of its business in such amounts as are normal and reasonable under the circumstances, provided that such debt is not evidenced by a note and is paid when due;

3.6. ORGANIZATIONAL DOCUMENTS. Lender will have received a copy of the Organizational Documents for Borrower, Lakewind, CBRM Realty Inc., and Crown Capital Holdings LLC and evidence of authority to sign with respect to each Person executing this Agreement, the other Loan Documents, and the Other Related Documents, all reasonably satisfactory to Lender in form and substance.

3.7. ENVIRONMENTAL REPORT. Lender will have received a copy of each Environmental Report issued to Borrower, Lakewind, or any Lakewind Lender with respect to the Project in form, substance, and conclusion reasonably acceptable to Lender.

ARTICLE 4. INSURANCE

So long as any obligation of Borrower under any of the Loan Documents remains outstanding, Borrower will (a) keep all its insurable properties and properties in which Borrower has an interest insured against the hazards of fire, flood, sprinkler leakage, those hazards covered by extended coverage insurance and such other hazards, and for such amounts, as is customary in the case of companies engaged in businesses similar to Borrower, (b) maintain insurance against

claims for personal injury, death or property damage suffered by others, and (c) maintain all such worker's compensation or similar insurance as may be required under the laws of any state or jurisdiction in which Borrower is engaged in business. Upon request, Borrower will furnish Lender appropriate loss payable and additional insured endorsements in form and substance reasonably satisfactory to Lender, naming Lender as an additional insured and lender loss payee as its interests may appear. Borrower will provide copies of all such insurance policies to Lender (including the appropriate lender loss payee and additional insured endorsements) within thirty (30) days after Borrower's request, however, only certificates of such insurance will be required at Closing. All insurance policies will be issued and maintained by insurers approved to do business in the state of Louisiana and must have an A.M. Best Company financial rating of B+ or better.

In addition to the foregoing, Borrower will cause Lakewind to maintain insurance against such insurable hazards which at the time are commonly insured against for property similar to the Project in or around the region in which the Project is located in such amounts as Borrower may from time to time reasonably determine or, if greater, as a Lakewind Lender may require. Such coverage requirements may include but are not limited to coverage for property loss, liability, flood hazard (if applicable), earthquake (if applicable), acts of terrorism, business income, delayed business income, rental loss, sink hole, soft costs, tenant improvement, environmental, and workers' compensation insurance for all contractors and subcontractors working on the Project. Borrower will cause Lakewind to provide copies of all such insurance policies to Lender (including any appropriate lender loss payee and additional insured endorsements) within thirty (30) days after Lender's written request.

ARTICLE 5. REPRESENTATIONS AND WARRANTIES

As a material inducement to Lender's entry into this Agreement, Borrower represents and warrants to Lender as of Closing that:

5.1. AUTHORITY/ENFORCEABILITY. Borrower and Lakewind are each in material compliance with all laws and regulations applicable to its organization, existence, and transaction of business and has all necessary rights and powers to own and operate its business as contemplated by the Loan Documents.

5.2. BINDING OBLIGATIONS. Borrower is authorized to execute, deliver, and perform its obligations under the Loan Documents, and such obligations will be valid and binding obligations of Borrower, subject to general principles of equity and bankruptcy, insolvency and other laws generally applicable to creditors' rights and the enforcement of debtors' obligations.

5.3. FORMATION AND ORGANIZATIONAL DOCUMENTS. Borrower has delivered to Lender all Organizational Documents of Borrower, Lakewind, CBRM Realty Inc., and Crown Capital Holdings LLC and such Organizational Documents remain in full force and effect and have not been amended or modified since they were delivered to Lender.

5.4. NO VIOLATION. Borrower's execution, delivery, and performance under the Loan Documents do not:

(a) require any consent or approval not heretofore obtained under Borrower's Organizational Documents or other document;

(b) violate any governmental requirement applicable to Borrower or any other statute, law, regulation, or ordinance or any order or ruling of any court or governmental entity by which Borrower is bound; or

(c) conflict with, constitute a breach or default under, or permit the acceleration of obligations under any agreement, contract, lease, or other document by which Borrower or Lakewind is bound or regulated.

5.5. COMPLIANCE WITH LAWS; USE. To Borrower's actual knowledge, all permits, licenses, exemptions, and approvals necessary to construct, occupy, and operate the Project have been acquired or issued or will be acquired or issued at such time as is necessary to cause the Project to be constructed in compliance with all governmental requirements, and the Project will at all times remain in compliance in all material respects with all governmental requirements applicable to the Project and all other applicable statutes, laws, regulations, and ordinances necessary for the operation of the Project for its intended purpose as contemplated herein. The Project is comprised of legal parcels lawfully created in full compliance with all subdivision laws and ordinances and is properly zoned for its intended use.

5.6. LITIGATION. Except as disclosed to Lender in writing, there are no claims, actions, suits, or proceedings pending or, to Borrower's knowledge, threatened against the Project or Borrower, Lakewind, or Guarantor.

5.7. FINANCIAL CONDITION. All financial statements and information heretofore and hereafter delivered to Lender by Borrower, if any, including, without limitation, information relating to the financial condition of Borrower, Lakewind, the Project, and Guarantor fairly and accurately represent the financial condition of the subject thereof in all material respects. Borrower acknowledges and agrees that Lender may request and obtain additional information from third parties regarding any of the above, including, without limitation, credit reports.

5.8. NO MATERIAL ADVERSE CHANGE. To Borrower's actual knowledge, there has been no Material Adverse Change, including without limitation a Material Adverse Change with respect to Borrower's, Lakewind's, or Guarantor's financial condition, since the dates of the latest financial statements, if any, furnished to Lender and, except as otherwise disclosed to Lender in writing, none of Borrower, Lakewind or Guarantor have entered into any material transaction which is not disclosed in such financial statements and would have a Material Adverse Effect on Borrower, Lakewind or Guarantor.

5.9. ACCURACY. All reports, documents, instruments, information, and forms of evidence delivered to Lender concerning the Loan or required by the Loan Documents are, in all material respects, accurate, correct, and sufficiently complete to give Lender true and accurate knowledge of their subject matter, and, to Borrower's actual knowledge, do not contain any material misrepresentation or omission.

5.10. TAX LIABILITY. Each of Borrower, Lakewind, and Guarantor have filed any and all required federal, state, county, and municipal tax returns and has paid all taxes and assessments

which would be deemed delinquent absent such payment, and Borrower has no knowledge of any basis for any additional payment with respect to any such taxes and assessments.

5.11. UTILITIES. To Borrower's actual knowledge, all utility services, including, without limitation, gas, water, sewage, electrical, and telephone, necessary for the development, occupancy, and Lakewind's current and any anticipated future use of the Project are or will be available at or within the boundaries of the Project.

5.12. COMPLIANCE. To Borrower's actual knowledge, Lakewind is in compliance in all material respects with all governmental requirements for the Project and the Project will at all times conform to and comply with all governmental requirements in all material respects.

5.13. LAKEWIND STATUS. Subject to the rights of Lender pursuant to Lender's Membership Interest as set forth in Borrower's Organizational Documents, (i) Borrower has Control and sole ownership of Lakewind, and (ii) Lakewind is member managed. There are no options or other rights to obtain a membership interest in Lakewind issued or outstanding. To Borrower's actual knowledge, (x) Lakewind and Borrower are each in compliance in all material respects with all laws and regulations applicable to its organization, existence, and transaction of business, and (y) Lakewind has all necessary rights and powers to own, develop, and operate the Project as contemplated by the Loan Documents.

5.14. AMERICANS WITH DISABILITIES ACT COMPLIANCE. To Borrower's actual knowledge, the Project was constructed and is operated in strict accordance and full compliance with all of the requirements of the Americans with Disabilities Act, of July 26, 1990, Pub. L. No. 101-336, 104 Stat. 327, 42 U.S.C. § 12101, et seq., as amended from time to time.

5.15. BUSINESS LOAN. The Loan is a business loan transaction in the stated amount solely for the purpose of carrying on the business of Borrower and none of the proceeds of the Loan will be used for the personal, family, or agricultural purposes of Borrower or any of its members.

ARTICLE 6. HAZARDOUS MATERIALS

6.1. SPECIAL REPRESENTATIONS AND WARRANTIES. Without in any way limiting the other representations and warranties set forth in this Agreement, and after reasonable investigation and inquiry, Borrower hereby represents and warrants to the actual knowledge of Borrower as of the date of this Agreement as follows:

(a) Hazardous Materials. Except as disclosed in the Environmental Site Assessments, to Borrower's actual knowledge, the Project is not and has not been a site for the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation, or presence of any petroleum substance, flammable explosives, asbestos, urea formaldehyde insulation, mold, toxic mold, radioactive materials, hazardous wastes, toxic, or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "wastes," "regulated substances," "industrial solid wastes," or "pollutants" under the Hazardous Materials Laws, as described below,

and/or other applicable environmental laws, ordinances, and regulations (collectively, the “Hazardous Materials”);

(b) Hazardous Materials Laws. To Borrower’s actual knowledge, the Project is in compliance in all material respects with all laws, ordinances, and regulations relating to Hazardous Materials (“Hazardous Materials Laws”), including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq.; the Comprehensive Environment Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986, “CERCLA”), 42 U.S.C. Section 9601 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801 et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f et seq.; all comparable state and local laws, laws of other jurisdictions or orders and regulations; and

(c) Hazardous Materials Claims. There are no claims or actions (“Hazardous Materials Claims”) pending or, to Borrower’s knowledge, threatened against Borrower, Lakewind, or any of their Affiliates or the Project by any governmental entity or agency or by any other person or entity relating to Hazardous Materials or pursuant to the Hazardous Materials Laws.

ARTICLE 7. COVENANTS OF BORROWER

As a material inducement to Lender’s entry into this Agreement, Borrower covenants with Lender that:

7.1. EXPENSES. Borrower will immediately pay Lender upon demand all reasonable and documented costs and expenses actually incurred by Lender in connection with: (a) Lender’s out-of-pocket expenses for the preparation of this Agreement, all other Loan Documents, and Other Related Documents contemplated hereby, including reasonable legal fees of outside counsel; and (b) the enforcement or satisfaction by Lender of any of Borrower’s obligations under this Agreement, the other Loan Documents, or the Other Related Documents. For all purposes of this Agreement, Lender’s out-of-pocket and actually incurred costs and expenses will include, without limitation, all appraisal fees, cost engineering and inspection fees, reasonable legal fees and expenses of outside counsel, accounting fees, environmental consultant fees, auditor fees, UCC filing fees, flood certification vendor fees, tax service vendor fees, and the cost to Lender of any title insurance premiums, title surveys, reconveyance fees, and notary fees. Borrower recognizes and agrees that formal written appraisals of the Project by a licensed independent appraiser may be required by Lender’s internal procedures on an annual or specialized basis (but not more often than annually) and that Lender may, at its option, require inspection of the Project by an independent supervising architect or cost engineering specialist upon completion of the Project.

7.2. ERISA COMPLIANCE. Borrower will at all times comply, and will cause Lakewind to comply, with the provisions of ERISA with respect to any retirement or other employee benefit plan to which it is a party as employer, if any, and as soon as reasonably possible after Borrower knows, or has reason to know, that any Reportable Event (as defined in ERISA) with respect to any such plan has occurred, it will furnish to Lender a written statement setting forth details as to such Reportable Event and the action, if any, which Borrower proposes to take with respect thereto, together with a copy of the notice of such Reportable Event furnished to the Pension Benefit Guaranty Corporation.

7.3. SINGLE PURPOSE ENTITY PROVISIONS. Without the prior written consent of Lender, which consent Lender will not unreasonably withhold, condition or delay, Borrower will not, and will not permit Lakewind to:

(a) engage in any business or activity other than, (i) in the case of Borrower, the acquisition, ownership and management of Lakewind, and activities incidental thereto, and (ii) in the case of Lakewind, the acquisition, development, ownership, operation, and maintenance of the Project, and activities incidental thereto;

(b) acquire or own any material asset other than (i) in the case of Lakewind, the Project; or (ii) in the case of Borrower, its membership interest in Lakewind;

(c) merge into or consolidate with any person or entity, dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets (except as otherwise permitted pursuant to the terms of the Loan Documents), or change its legal structure;

(d) fail to preserve its existence as an entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of its organization or formation;

(e) amend, modify, terminate, or fail to comply with the material provisions of its Organizational Documents required pursuant to Section 3.5 hereof;

(f) directly or beneficially own any subsidiary (other than with respect to Borrower's ownership of the membership interests in Lakewind) or make any investment in or acquire the obligations or securities of any other person or entity except as expressly contemplated in this Section 7.3;

(g) commingle its assets with the assets of any of its partners, members, principals, shareholders, equity holders, owners, or Affiliates, or of any other person or entity, or transfer any assets to any such person or entity, other than the transfer of the Loan proceeds from Borrower to Lakewind and distributions from Lakewind to Borrower on account of Borrower's ownership of Lakewind permitted hereunder and properly accounted for;

(h) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than any Permitted Loan and, in the case of Lakewind, unsecured trade and operational debt incurred by Lakewind with trade creditors in the

ordinary course of its business in such amounts as are normal and reasonable under the circumstances, provided that such debt is not evidenced by a note and is paid when due;

(i) allow any other person or entity to pay its debts and liabilities or fail to pay its debts and liabilities solely from its own assets; provided, however, that notwithstanding anything set forth herein to the contrary, in no event shall this subsection (i) require any constituent member of either Borrower or Lakewind to make any additional capital contribution to either Borrower or Lakewind to satisfy this subsection (i);

(j) fail to maintain its records, books of account, and bank accounts separate and apart from those of its partners, members, principals, shareholders, owners, equity holders, and Affiliates, the Affiliates of its partners, members, principals, shareholders, owners, and equity holders, and any other person or entity;

(k) fail to prepare and maintain its own financial statements in accordance with generally accepted accounting and susceptible to audit, or if such financial statements are consolidated, fail to cause such financial statements to contain footnotes disclosing that the Project is actually owned by Lakewind; provided, however, that notwithstanding the foregoing to the contrary, each of Borrower and Lakewind may maintain consolidated financial statements with its Affiliates, so long as any such consolidated financial statement contains a note indicating that Borrower's and/or Lakewind's, as applicable, separate assets and credit are not available to pay the debts of such Affiliate and that Borrower's and/or Lakewind's, as applicable, liabilities do not constitute obligations of the consolidated entity;

(l) enter into any contract or agreement with any partner, member, principal, shareholder, owner, equity holder, or Affiliate, or any partner, member, principal, shareholder, owner, equity holder, or Affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties other than any partner, member, principal, shareholder, owner, equity holder, or Affiliate, or any partner, member, principal, shareholder, owner, equity holder, or Affiliate thereof;

(m) seek dissolution or winding up, in whole or in part;

(n) fail to correct any known material misunderstandings regarding the separate identity of each of Borrower and Lakewind;

(o) hold itself out to be responsible or pledge its assets or credit worthiness for the debts of another person or entity, or allow any person or entity to hold itself out to be responsible or pledge its assets or credit worthiness for the debts of Borrower (except for Guarantor);

(p) make any loans or advances to any third party, including any partner, member, principal, shareholder, owner, equity holder, or Affiliate of Borrower, or any partner, member, principal, shareholder, owner, equity holder, or Affiliate thereof;

(q) fail to file its own tax returns or to use its own name for all of its contracts, purchase orders, stationery, invoices, and checks;

(r) fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name in order not (i) to mislead others as to the entity with which such other party is transacting business, or (ii) to suggest that it is responsible for the debts of any third party (including any partner, member, principal, shareholder, owner, equity holder, or Affiliate, or any partner, member, principal, shareholder, owner, equity holder, or Affiliate thereof);

(s) fail to fairly and reasonably allocate any overhead for common employees, shared office space, or other overhead and administrative expenses, if any;

(t) allow any person or entity to pay the salaries of its employees, if any, or fail to maintain a sufficient number of employees for its contemplated business operations, if any are contemplated;

(u) fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, as applicable, so long as there is sufficient cash flow from the operation of the Project to do so, and provided, however, that nothing in this subsection (u) shall require any direct or indirect equity owner of either Borrower or Lakewind to contribute additional capital to either Borrower or Lakewind, as applicable, in order to satisfy the obligations set forth in this subsection (u);

(v) except in all respects to the extent required by Lender during the continuance of a Default, file a voluntary petition or otherwise initiate proceedings to have it or any general partner, manager, or managing member of it adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against it or any general partner, manager, or managing member of it, or file a petition seeking or consenting to reorganization or relief of it or any general partner, manager, or managing member of it as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to it or any general partner, manager, or managing member of it; or seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequester, custodian, liquidator (or other similar official) of it or any general partner, manager, or managing member of it or of all or any substantial part of the properties and assets of it or any general partner, manager, or managing member of it; or make any general assignment for the benefit of creditors of it or any general partner, manager, or managing member of it, or admit in writing the inability of it or any general partner, manager, or managing member of it to pay its debts generally as they become due; or declare or effect a moratorium on it or any general partner, manager, or managing member of it; or take any action in furtherance of any of the foregoing;

(w) share any common logo with, or hold itself out as, or be considered as a department or division of, (i) any partner, member, principal, shareholder, owner, equity holder, or Affiliate, (ii) any Affiliate of a partner, member, principal, shareholder, owner,

equity holder, or Affiliate, or (iii) any other person or entity, or allow any person or entity to identify it as a department or division of that person or entity; or

(x) conceal assets from any creditor, or enter into any transaction with the intent to hinder the rights of any creditor.

Notwithstanding anything set forth herein to the contrary, in the event that the terms of this Section 7.3 conflict with any single purpose entity provisions contained in any loan documents executed in connection with any Permitted Loan (collectively, the “Permitted Loan Documents”), then, with respect to Lakewind only, the terms of such Permitted Loan Documents shall govern and control.

7.4. FURTHER ASSURANCES. Upon Lender’s request and at Borrower’s sole cost and expense, Borrower will execute, acknowledge and deliver any other instruments and perform any other acts necessary, as reasonably determined by Lender, to carry out the purposes of this Agreement and the other Loan Documents or to perfect and preserve any liens created by the Loan Documents.

7.5. LIMITATIONS ON DISTRIBUTIONS, ETC. Unless expressly consented to by Lender in writing (which consent Lender may withhold in Lender’s sole discretion), so long as a Default or Potential Default exists and is uncured, Borrower will not, and will prohibit and not permit Lakewind to, (i) make any distribution to any member (except as may be necessary to make payment against the Loan), (ii) repay any principal or interest on any loan or other advance other than payment pursuant to the terms of any Lakewind Loan Documents, or (iii) make any loan or advance to any of its members.

7.6. ASSIGNMENT. Without the prior written consent of Lender, Borrower will not assign Borrower’s interest under any of the Loan Documents or in any monies due or to become due thereunder.

7.7. EB-5 COMPLIANCE. Borrower agrees to comply with all reasonable written requests of Lender necessary to cause Borrower, Lender, and the Project to comply with USCIS regulations applicable to the EB-5 program.

ARTICLE 8. REPORTING COVENANTS

As a material inducement to Lender’s entry into this Agreement, Borrower covenants with Lender that:

8.1. FINANCIAL STATEMENTS. Borrower will deliver or cause to be delivered to Lender:

(a) within ninety (90) days after the end of each fiscal year, Borrower’s and Lakewind’s financial statements, including a balance sheet, income statement, owner’s equity, and cash flows for such fiscal year, all in reasonable detail and prepared by Borrower’s (or Borrower’s constituent owner’s) president, chief financial officer, or other officer or person reasonably acceptable to Lender;

(b) within forty-five (45) days after the end of each fiscal quarter of each fiscal year, Lakewind's rent roll and Borrower's and Lakewind's financial statements, including a balance sheet, income statement, owner's equity, and cash flows for such quarter then ended, all in reasonable detail and prepared by Borrower's (or Borrower's constituent owner's) president, chief financial officer, or other officer or person reasonably acceptable to Lender;

(c) within ninety (90) days after the end of each calendar year, a signed personal financial statement with respect to each Guarantor prepared by a certified public accountant and certified true and accurate in all material respects by such Guarantor; and

(d) concurrently with submission thereof, any financial statement, rent roll or the like submitted by Borrower, Lakewind, or any Guarantor to any Lakewind Lender.

8.2. OTHER INFORMATION. Borrower will deliver (or cause to be delivered) to Lender the following in form and detail reasonably satisfactory to Lender:

(a) promptly upon Lender's request, copies of any detailed audit reports, management letters, or recommendations submitted to and actually received by Borrower, Lakewind, or Guarantor by independent accountants in connection with the accounts or books of Borrower, Lakewind or Guarantor;

(b) Lakewind's form of residential lease upon adoption of the form or any amendment thereto;

(c) promptly upon execution, any management agreement entered into by Lakewind or its affiliate with respect to the residential portion of the Project;

(d) promptly upon receipt, all building and other governmental permits obtained with respect to the Project;

(e) promptly upon issuance or receipt, any notice or correspondence from or to Borrower or Lakewind with respect to any Lakewind Lender; and

(f) promptly upon Lender's request, such additional information regarding the business, financial, or corporate affairs of Borrower, Lakewind, or Guarantor, or compliance with the terms of the Loan Documents, as Lender may from time to time reasonably request; provided that neither Borrower nor Guarantor will be required to provide any documentation or information (i) if such disclosure to Lender is then prohibited by law or any arms-length agreement with unaffiliated third parties binding on the disclosing party, (ii) that is subject to attorney-client privilege or constitutes attorney work product, or (iii) absent the existence of a Default, to the extent Lender makes a request therefore more than four (4) times in any calendar year.

8.3. NOTICES. Borrower will promptly notify Lender of the following:

(a) the occurrence of any Default or Potential Default with respect to the Loan, or of the occurrence of any default with respect to a Lakewind Loan or any other financing

secured by the Project which continues beyond the expiration of any grace and/or notice and cure period;

(b) any material modification of any of Lakewind Loan Documents, including but not limited to acceleration or extension of the maturity of any Lakewind Loan (provided that Borrower will not agree to, and will prevent Lakewind from agreeing to, any extension of the maturity of any Lakewind Loan beyond the initial maturity date as evidenced in Lakewind Loan Documents provided to Lender without Lender's written consent);

(c) any matter that has resulted or is reasonably likely to result in a Material Adverse Effect, including without limitation (i) breach or non-performance of, or any default under, a contractual obligation of Borrower, Lakewind, or any Guarantor; (ii) any dispute, litigation, investigation, or proceeding between Borrower, Lakewind, or any Guarantor and any Governmental Authority which has a Material Adverse Effect; or (ii) the commencement of, or any material development in, any litigation or proceeding affecting Borrower, Lakewind, any Guarantor, or the Project, including any litigation or proceeding pursuant to any applicable Environmental Laws, except in connection with any eviction or other action to enforce any rights of Lakewind or Borrower against any resident of the Project; and

(d) the occurrence of any Reportable Event (as defined under ERISA).

Each notice pursuant to this Section will be accompanied by a statement of a responsible officer of Borrower, Lakewind, or any Guarantor, as applicable, setting forth details of the occurrence referred to therein and stating what action Borrower, Lakewind, or any Guarantor, as applicable, has taken or will take and thereafter proposes to take with respect thereto; provided that the disclosing party will not be required to provide any information (i) in respect of which disclosure is then prohibited by law, or (ii) is subject to attorney-client privilege or constitutes attorney work product. Each notice pursuant to Section 8.3(a) will describe the default or potential default with particularity and reference to the provision(s) of the applicable loan documents that have been breached.

8.4. BOOKS AND RECORDS. Borrower will maintain complete books of account and records, and will require Lakewind to maintain complete books of account and records (including books and records for the disbursement and use of the proceeds of the Loan), and Borrower will make the same available (or cause the same to be made available) for inspection and copying by Lender upon reasonable prior written notice and during normal business hours.

ARTICLE 9. DEFAULTS AND REMEDIES

9.1. DEFAULT. Subject to any specified periods of notice and cure, the occurrence of any one or more of the following will constitute a "Default" under this Agreement and the Loan Documents:

(a) Monetary. Borrower's failure to pay any amount payable under any of the Loan Documents within five (5) days following the date on which the same becomes due.

(b) Performance of Obligations. Borrower's failure to timely perform any obligation, covenant, or condition under this Agreement or any of the other Loan Documents not otherwise addressed in this Section 9.1, and such failure is not cured within thirty (30) days after written notice thereof is given by Lender to Borrower; provided, however, if any such failure is susceptible to cure and cannot reasonably be cured within thirty (30) days, Borrower will have an additional ninety (90) day period to cure such failure, so long as Borrower commences such cure within the initial thirty (30) day period and diligently and in good faith pursues such cure to completion within one hundred twenty (120) days from the date of Borrower's receipt of Lender's original written notice.

(c) Liens, Attachment; Condemnation. (i) The recording of any claim of lien other than a Permitted Lien against the Project and the continuance of such claim of lien for sixty (60) days without discharge, satisfaction or provision for payment being made in a manner reasonably satisfactory to Lender, except to the extent Borrower and/or Lakewind contests such lien in accordance with applicable legal requirements and such contest suspends the obligation to pay the same or the same is bonded over by Borrower; or (ii) the condemnation, seizure, or appropriation of, or occurrence of an uninsured casualty with respect to any material portion of the Project; provided, however, that no Default shall occur with respect to any uninsured casualty to the extent Borrower otherwise has complied with Article 4 hereof in all respects; or (iii) the sequestration or attachment of, or any levy or execution upon, any of the Project, any other collateral provided by Borrower under any of the Loan Documents, or any substantial portion of the other assets of Borrower or any Guarantor, which sequestration, attachment, levy, or execution is not released, expunged, or dismissed prior to the earlier of sixty (60) days or the sale of the assets affected thereby;

(d) Representations and Warranties. (i) If any representation of Borrower was false or incorrect in any material respect when made; or (ii) the failure of any warranty of Borrower in any of the Loan Documents and the continuation of such failure for more than twenty (20) days after written notice to Borrower from Lender requesting that Borrower cure such failure;

(e) Voluntary Bankruptcy; Insolvency; Dissolution. In any event, Borrower's or Lakewind's (i) filing of a petition for relief under the Bankruptcy Code, or under any other present or future state or federal law regarding bankruptcy, reorganization, or other debtor relief law; (ii) filing of any pleading or an answer in any involuntary proceeding under the Bankruptcy Code or other debtor relief law which admits the jurisdiction of the court or the petition's material allegations regarding Borrower's insolvency; (iii) filing a general assignment for the benefit of creditors; or (iv) applying for, or the appointment of, a receiver, custodian, or liquidator for it or any of Borrower's or Lakewind's property;

(f) Involuntary Bankruptcy; Foreclosure; Receivership. (i) the filing of a petition or complaint under the Bankruptcy Code or under any other debtor relief law that in any way seeks to restrain or limit Borrower or Lakewind with respect to the Loan, the Project or any collateral pledged to Lender and Borrower fails to effect a full dismissal thereof prior to the earlier of the entry of any court order granting relief sought in such petition or complaint or ninety (90) days after the date of filing, (ii) the filing of any complaint seeking foreclosure or similar judicial sale with respect to the Project or any

property subject to a lien in favor of Lender and the same is not dismissed prior to the earlier of the entry of any court order granting relief sought in such petition or complaint or ninety (90) days after the date of filing, or (iii) the filing of any complaint or other action seeking appointment of a receiver with respect to Borrower, Lakewind, the Project, or any property subject to a lien in favor of Lender, and the same is not dismissed prior to the earlier of the entry of any court order granting relief sought in such petition or complaint or ninety (90) days after the date of filing;

(g) Guarantor. The occurrence of any of the events specified in Section 9.1(e) or Section 9.1(f) above as to Guarantor;

(h) Intentionally Omitted;

(i) Death or Incapacity of Guarantor. The death or incapacity of any Guarantor that is a natural person, if any, unless Borrower provides a substitute or replacement Guarantor reasonably acceptable to Lender within ninety (90) days after the occurrence of any such death or incapacity and such substitute or replacement Guarantor executes a Guaranty on the same form as executed by the initial Guarantor in connection with the Closing; Lender hereby acknowledges that a trust or other family entity of such Guarantor will be a sufficient replacement for such Guarantor so long as such trust or entity will have at least the same financial wherewithal as the applicable Guarantor as of the date hereof;

(j) Change in Management or Control; Dispute. The occurrence of any change in the management of Borrower or Lakewind except as permitted or required under the operating agreement of Borrower or Lakewind, respectively, or as otherwise permitted or required pursuant to the terms of this Agreement;

(k) Intentionally Omitted;

(l) Transfer of Assets. The sale, assignment, pledge, hypothecation, mortgage, or transfer of all or a substantial portion of the assets of Borrower, Lakewind, or any Guarantor, other than (i) Permitted Liens, (ii) the sale or transfer of assets (other than the Project) for value in the ordinary course of business, and (iii) any Permitted Transfer;

(m) Default Under Guaranty. The occurrence of a default under any Guaranty, including without limitation the failure of the Guarantor thereunder to perform any covenant, condition, or obligation thereunder, which default continues beyond any applicable notice, cure or grace period; or

(n) Default Under Other Indebtedness. If a default occurs and is continuing beyond any applicable cure or grace period for a Lakewind Loan or any indebtedness secured by a lien on the Project and the effect of such default is to permit acceleration of the repayment of such indebtedness.

9.2. ACCELERATION UPON DEFAULT; REMEDIES. Upon the occurrence and during the continuance of any Default specified in this Article 9, Lender may, at its sole option, declare all sums owing to Lender under the Note, this Agreement, and the other Loan Documents immediately due and payable. Upon such acceleration, Lender may, in addition to all other

remedies permitted under this Agreement and the other Loan Documents and at law or equity, apply any sums Lender holds or receives on account of Borrower and any sums in the Interest Account to the sums owing under the Loan Documents and any and all obligations of Lender will have no further obligation to fund further Disbursements.

9.3. DISBURSEMENTS TO THIRD PARTIES. Upon the occurrence and during the continuance of a Default occasioned by Borrower's or Lakewind's failure to pay money to a third party as required by this Agreement, if any, Lender, upon not less than five (5) days prior written notice to Borrower or Lakewind, as applicable, may (but will not be obligated to) make such payment on Borrower's or Lakewind's behalf. If Lender makes such payment, Borrower will repay such funds within ten (10) days after written demand from Lender and the Default with respect to which any such payment has been made by Lender will not be deemed cured until Borrower has repaid Lender as required under this Section.

9.4. MEMBERSHIP RIGHTS. In addition to any rights under this Agreement, so long as Lender holds Borrower's Class B Unit, Lender will be entitled to exercise all of Lender's rights under Borrower's Organizational Documents.

9.5. REPAYMENT OF FUNDS EXPENDED. Any funds reasonably expended by Lender in the exercise of its rights or remedies under this Agreement and the other Loan Documents will be payable to Lender within ten (10) days after written demand therefor, together with interest at the then-applicable rate of interest from the date the funds were expended until paid.

9.6. DEFAULT INTEREST. Should a monetary Default exist and continue beyond any right for Borrower to cure, Borrower will, at Lender's demand, pay Lender interest on such outstanding amount at the Default Rate. Borrower acknowledges that the Default Rate fairly compensates Lender for increased risk and expense related to the Loan being in Default, is not a penalty, and the imposition of the Default Rate is in addition to, and does not limit, Lender's other rights and remedies under this Agreement or the Loan Documents.

9.7. RIGHTS CUMULATIVE, NO WAIVER. All Lender's rights and remedies provided in this Agreement and the other Loan Documents, together with those granted by law or at equity, are cumulative and may be exercised by Lender at any time upon the occurrence and during the continuance of any Default. Lender's exercise of any right or remedy will not constitute a cure of any Default unless all sums then due and payable to Lender under the Loan Documents are repaid and Borrower has cured all other Defaults. No waiver will be implied from any failure of Lender to take, or any delay by Lender in taking, action concerning any Default or failure of condition under the Loan Documents, or from any previous waiver of any similar or unrelated Default or failure of condition. Any waiver or approval under any of the Loan Documents must be in writing and will be limited to its specific terms.

ARTICLE 10. DUE ON SALE/ENCUMBRANCE

10.1. PROPERTY TRANSFERS.

(a) **Prohibited Property Transfers.** Borrower will not cause or permit any Transfer of all or any part of Borrower's direct membership interest in Lakewind and will not cause or permit

Lakewind to Transfer all or any part of Lakewind's direct ownership interest in the Project (collectively, a "Prohibited Property Transfer"), including, without limitation, (i) a Lease of all or substantially all of the Project; and (ii) the Transfer of all or any part of Borrower's right, title, and interest in and to any Lease or lease payments, except pursuant to any Lakewind Loan Documents.

(b) Permitted Property Transfers. Notwithstanding the foregoing to the contrary, none of the following Transfers will be deemed to be a Prohibited Property Transfer (each a "Permitted Transfer"): (i) a Transfer which is expressly permitted under this Agreement; (ii) residential leases of apartments at market rates; (iii) commercial leases of commercial space at market rates; and (iv) the granting of any Permitted Lien; (v) any Transfer of the Project where the Loan is repaid in full together with all accrued interest and any applicable Prepayment Fee; and (vi) a Transfer of any direct or indirect ownership interest in Borrower, provided that Guarantor maintains Control of Borrower and Borrower continues to own one hundred percent (100%) of and Control Lakewind.

10.2. CERTIFICATES OF OWNERSHIP. Borrower will deliver to Lender, at any time and from time to time, not more than five (5) days after Lender's written request therefor, a certificate, in form reasonably acceptable to Lender, signed and dated by Borrower, listing the names of all Persons holding direct ownership interest in Borrower, Lakewind, or the Project and the type and amount of each such interest.

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.1. INDEMNITY. BORROWER HEREBY AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS LENDER AND ITS DIRECTORS, MEMBERS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES (EXCLUDING CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES), LIABILITIES, CLAIMS, ACTIONS, JUDGMENTS, COURT COSTS, AND REASONABLE LEGAL OR OTHER EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES OF OUTSIDE COUNSEL) WHICH INDEMNIFIED PARTIES MAY INCUR AS A DIRECT OR INDIRECT CONSEQUENCE OF: (A) THE FAILURE OF BORROWER TO PERFORM ANY OBLIGATIONS AS AND WHEN REQUIRED BY THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS; OR (B) ANY FAILURE AT ANY TIME OF ANY OF BORROWER'S REPRESENTATIONS OR WARRANTIES TO BE TRUE AND CORRECT IN ANY MATERIAL RESPECT WHEN MADE OR GIVEN. BORROWER WILL PROMPTLY PAY TO INDEMNIFIED PARTIES UPON DEMAND ANY AMOUNTS OWING UNDER THIS INDEMNITY. BORROWER'S DUTY AND OBLIGATIONS TO DEFEND, INDEMNIFY, AND HOLD HARMLESS INDEMNIFIED PARTIES WILL SURVIVE REPAYMENT OF THE LOAN AND CANCELLATION OF THE NOTE. NOTWITHSTANDING ANYTHING SET FORTH HEREIN TO THE CONTRARY, BORROWER SHALL HAVE NO INDEMNIFICATION OBLIGATION UNDER THIS SECTION 11.1 TO THE EXTENT OF ANY INDEMNIFIED PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, FRAUD, ILLEGAL ACTS OR BREACH OF THIS AGREEMENT.

11.2. NO THIRD PARTIES BENEFITED. No person other than Lender and Borrower and their permitted successors and assigns will have any right of action under any of the Loan Documents.

11.3. NOTICES. All notices, demands, or other communications under this Agreement and the other Loan Documents will be in writing and will be delivered to the appropriate party at the address set forth on the signature page of this Agreement (subject to change from time to time by written notice to all other parties to this Agreement). All communications will be deemed delivered (i) if hand delivered or if sent by electronic transmission with verification of delivery, effective upon receipt, or (ii) if delivered by overnight courier service, effective upon receipt, or (iii) if mailed by United States registered or certified mail, postage prepaid, return receipt requested, effective upon receipt, or rejection or refusal.

11.4. ACTIONS. Borrower agrees that Lender, in enforcing its' rights under the Loan Documents during the continuance of a Default, may commence, appear in, or defend any action or proceeding purporting to affect the Project, or the Loan Documents and Borrower will immediately reimburse Lender upon demand for all such reasonable expenses so incurred or paid by Lender, including, without limitation, attorneys' fees and expenses and court costs.

11.5. RIGHT OF CONTEST. Borrower or its Affiliate may contest in good faith any claim, demand, levy, or assessment by any person other than Lender which would constitute a Default if: (a) Borrower pursues the contest diligently, in a manner which does not impair the rights of Lender under any of the Loan Documents; and (b) Borrower deposits with Lender any funds or other forms of assurance which Lender in good faith reasonably determines from time to time appropriate to protect Lender from the consequences of the contest being unsuccessful. Borrower's compliance with this Section will operate to prevent such claim, demand, levy, or assessment from becoming a Default.

11.6. RELATIONSHIP OF PARTIES. The relationship of Borrower and Lender under the Loan Documents is, and will at all times remain, solely that of a borrower and a lender, and Lender neither undertakes nor assumes any responsibility or duty to Borrower or to any third party with respect to Lakewind or the Project, except as expressly provided in this Agreement, the other Loan Documents or Borrower's Organizational Documents.

11.7. ATTORNEYS' FEES AND EXPENSES; ENFORCEMENT. If any attorney is engaged by Lender to enforce or defend any provision of this Agreement, any of the other Loan Documents or Other Related Documents, if any, or as a consequence of any Default under the Loan Documents, with or without the filing of any legal action or proceeding, and including, without limitation, any reasonable fees and expenses incurred in any bankruptcy proceeding of the Borrower, then Borrower will immediately pay to Lender, upon demand, the amount of all reasonable attorneys' fees and expenses of outside counsel and all reasonable and documented out-of-pocket costs actually incurred by Lender in connection therewith, together with interest thereon from the date of such demand until paid at the rate of interest applicable to the principal balance of the Note as specified therein.

11.8. IMMEDIATELY AVAILABLE FUNDS. Unless otherwise expressly provided for in this Agreement, all amounts payable by Borrower to Lender will be payable only in United States currency, immediately available funds.

11.9. LENDER'S CONSENT. Except as otherwise provided herein, wherever in this Agreement there is a requirement for Lender's approval or consent and/or a document to be provided or an action taken "to the satisfaction of Lender," it is understood by such phrase that Lender will give or withhold its approval or exercise its consent, right, or judgment, if at all, in a reasonable and timely manner given the specific facts and circumstance applicable at the time.

11.10. LOAN SALES AND PARTICIPATIONS; DISCLOSURE OF INFORMATION. Borrower agrees that Lender may elect, at any time and at no additional cost to Borrower, to sell, assign, or grant participations in all or any portion of its rights and obligations under the Loan Documents, and that any such sale, assignment, or participation may be to one or more financial institutions, private investors, and/or other entities, at Lender's sole discretion ("Participant"). Borrower further agrees that Lender may disseminate to any such actual or potential purchaser(s), assignee(s), or participant(s) all documents and information (including, without limitation, all financial information) which has been or is hereafter provided to or known to Lender with respect to: (a) the Project and its operation; (b) any party connected with the Loan (including, without limitation, the Borrower and any Guarantor); and/or (c) any lending relationship other than the Loan which Lender may have with any party connected with the Loan; provided, however, that Lender shall require that each such Participant maintains the confidentiality of any such documents or information and does not disseminate any of the same to any other recipient. In the event of any such sale, assignment or participation, Lender and the parties to such transaction will share in the rights and obligations of Lender as set forth in the Loan Documents only as and to the extent they agree among themselves. In connection with any such sale, assignment, or participation, Borrower further agrees that the Loan Documents will be sufficient evidence of the obligations of Borrower to each purchaser, assignee, or participant, and upon written request by Lender, Borrower will enter into such amendments or modifications to the Loan Documents as may be reasonably required in order to evidence any such sale, assignment, or participation, provided that no such amendment or modification materially increases Borrower's or Lakewind's obligations or liabilities under the Loan Documents, or materially reduces Borrower's or Lakewind's rights or remedies under the Loan Documents. The indemnity obligations of Borrower under the Loan Documents will also apply with respect to any purchaser, assignee, or participant.

11.11. LENDER'S AGENT. Lender may designate an agent or independent contractor to exercise any of Lender's rights under this Agreement and any of the other Loan Documents, and Lender shall deliver written notice to Borrower of any such designation promptly following the occurrence thereof. Any reference to Lender in any of the Loan Documents will include Lender's agent or independent contractor, to the extent designated by Lender. Borrower will pay the reasonable costs of such agent or independent contractor either directly to such person or to Lender in reimbursement of such costs, as applicable.

11.12. WAIVER OF RIGHT TO TRIAL BY JURY. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION (a) ARISING UNDER THIS AGREEMENT OR ANY

OTHER LOAN DOCUMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE MODIFICATION HEREOF OR THEREOF OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF BORROWER AND LENDER OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (AS NOW OR HEREAFTER MODIFIED) OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND BORROWER HEREBY AGREES AND CONSENTS THAT LENDER MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BORROWER TO THE WAIVER OF ANY RIGHT BORROWER MIGHT OTHERWISE HAVE TO TRIAL BY JURY. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO ENTER INTO THE FINANCING TRANSACTION. IT WILL NOT IN ANY WAY AFFECT, WAIVE, LIMIT, AMEND, OR MODIFY LENDER'S ABILITY TO PURSUE ITS REMEDIES.

11.13. SEVERABILITY. If any provision or obligation under this Agreement and the other Loan Documents will be determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, that provision will be deemed severed from the Loan Documents and the validity, legality, and enforceability of the remaining provisions or obligations will remain in full force as though the invalid, illegal, or unenforceable provision had never been a part of the Loan Documents, provided, however, that, except in connection with any interest owed in excess of the Maximum Rate (as defined in the Note) which shall be governed by the terms of the Note, if any amount payable under the Note or this Agreement or any other Loan Document, or the right of collectability therefor, is declared to be or become invalid, illegal, or unenforceable, Lender's obligations to make Disbursements under the Loan Documents will not be enforceable by Borrower.

11.14. SUCCESSORS AND ASSIGNS. Except as otherwise expressly provided under the terms and conditions of this Agreement, the terms of the Loan Documents will bind and inure to the benefit of the permitted successors and assigns of the parties. Nothing in this Section will be deemed to permit Borrower to assign any of its rights under this Agreement without Lender's express written consent, which consent Lender may grant or withhold at Lender's sole discretion.

11.15. TIME. Time is of the essence of each and every term of this Agreement.

11.16. HEADINGS. All articles, sections, or other headings appearing in this Agreement and any of the other Loan Documents are for convenience of reference only and will be disregarded in construing this Agreement and any of the other Loan Documents.

11.17. GOVERNING LAW; FORUM SELECTION. This Agreement will be governed by, and construed and enforced in accordance with the laws of the State of Ohio, except to the extent preempted by federal laws. Borrower and all persons and entities in any manner obligated to Lender under the Loan Documents consent to the jurisdiction of any federal or state court within the State of Ohio having proper venue and also consent to service of process by any means

authorized by Ohio or federal law. Any dispute related to this Agreement or the Loan Documents will be litigated in a state or federal court that is situated in Cuyahoga County, Ohio.

11.18. INTEGRATION; INTERPRETATION. The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. The Loan Documents will not be modified except by written instrument executed by all parties. Any reference to the Loan Documents includes any amendments, renewals, or extensions now or hereafter approved by Lender in writing.

11.19. JOINT AND SEVERAL LIABILITY. The liability of all persons and entities obligated in any manner under this Agreement and any of the Loan Documents will be joint and several unless otherwise indicated.

11.20. COUNTERPARTS. To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It will not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts will collectively constitute a single document. It will not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

11.21. INCORPORATION OF RECITALS. The Recitals portion of the Agreement is incorporated in this Agreement as if fully restated herein.


[Signature Pages Follow]

IN WITNESS WHEREOF, Borrower and Lender have executed this Agreement as of the date appearing on the first page of this Agreement.

"LENDER"

CLEVELAND INTERNATIONAL FUND –
NRP WEST EDGE, LTD.
an Ohio limited liability company

By: CLEVELAND INTERNATIONAL FUND, LTD.
an Ohio limited liability company, its Manager


By: 
Stephen J. Strmisha, CEO

Lender's Address:

12434 Cedar Road, Suite 15
Cleveland Heights, Ohio 44106

“BORROWER”

LAGUNA RESERVE APTS INVESTOR LLC
a Delaware limited liability company

By:  _____

Name: Mark Silber

Its: Authorized Signatory

Borrower's Address:

46 Main Street, Suite 339
Monsey, New York 10952

EXHIBIT A - LOAN DOCUMENTS

Exhibit C to CREDIT AGREEMENT between Laguna Reserve Apts Investor LLC, an Ohio limited liability company as “Borrower”, and Cleveland International Fund – NRP West Edge, Ltd., an Ohio limited liability company, as “Lender”, dated April 25, 2023.

1. Loan Documents. The documents listed below and any amendments, restatements, modifications, and supplements thereto which have received the prior written consent of Lender, are collectively referred to herein as the Loan Documents.
 - 1.1 This Agreement.
 - 1.2 Note of even date herewith in the form of Exhibit D hereto with all blanks filled executed by Borrower in favor of Lender.
2. Other Related Documents. The documents listed below and any amendments, restatements, modifications, and supplements thereto which have received the prior written consent of Lender, are collectively referred to herein as the Other Related Documents.
 - 2.1 Guaranty executed by Guarantor.
 - 2.2 Hazardous Materials Indemnity Agreement executed by Borrower and Guarantor.
 - 2.3 Operating Agreement of Borrower executed by Borrower and Lender for Class B Unit issued by Borrower and acquired by Lender.

EXHIBIT B – FORM OF NOTE

Exhibit B to CREDIT AGREEMENT between Laguna Reserve Apts Investor LLC, an Ohio limited liability company as “Borrower”, and Cleveland International Fund – NRP West Edge, Ltd., an Ohio limited liability company, as “Lender”, dated April 25, 2023.

PROMISSORY NOTE

\$5,000,000.00

Cleveland, Ohio
April __, 2023

FOR VALUE RECEIVED, LAGUNA RESERVE APTS INVESTOR LLC, a Delaware limited liability company having a principal place of business at 46 Main Street, Suite 339, Monsey, New York 10952 (hereinafter referred to as “Maker”), promises to pay to the order of CLEVELAND INTERNATIONAL FUND – NRP WEST EDGE, LTD., an Ohio limited liability company, having offices at 12434 Cedar Road, Suite 15, Cleveland Heights, Ohio 44106 (hereinafter referred to as “Lender”), the principal sum of up to Five Million Dollars and 00/100 Dollars (\$5,000,000.00), or such lesser principal amount as may be outstanding hereunder on April __, 2026 (the “Maturity Date”), together with interest in arrears from the date hereof on the unpaid principal balance from time to time outstanding at the rate or rates per annum specified in Section 2.2 of the Credit Agreement (as defined below).

This Promissory Note (this “Note”) is the Note referred to in that certain Credit Agreement of even date herewith (the “Credit Agreement”) by and among Maker, as “Borrower”, and Lender, as “Lender”, and is in all respects subject to the provisions of the Credit Agreement. Any capitalized terms used in this Note and not otherwise defined in this Note will have the same meaning as set forth in the Credit Agreement. In the event of any inconsistency between the terms and conditions of this Note and the terms and conditions of the Credit Agreement, the terms and conditions of the Credit Agreement will govern. All proceeds of this Note are advanced in accordance with the provisions of the Credit Agreement.

Current Interest hereunder will be payable in accordance with the terms of Section 2.2(a) of the Credit Agreement. Deferred Interest hereunder will be payable in accordance with the terms of Section 2.2(b) of the Credit Agreement.

As provided in Section 2.2(c) of the Credit Agreement, upon and after the occurrence and during the continuance of a Default, interest will be payable hereunder at an interest rate per annum equal to the Default Rate. In the event that any payment required under this Note remains unpaid for more than five (5) business days, a “late charge” of 5% of the overdue amount will become immediately due and payable without presentment or demand, and the unpaid amount will bear interest at the Default Rate until paid.

All sums payable hereunder are payable in lawful money of the United States of America and in immediately available funds by electronic transfer to Lender or as Lender or its successors or assigns may direct.

This Note may be prepaid only in accordance with the terms and conditions set forth in Section 2.6 of the Credit Agreement.

Whenever a day on which payment of interest or principal required to be made hereunder falls on a Saturday, Sunday or public holiday, such payment will be due on the next following normal Business Day, and where time is extended for the payment of principal by virtue of the due date thereof falling on a Saturday, Sunday or public holiday, such extended time will be included in the computation of interest.

At any time during the continuance of any Default, this Note, at the option of Lender, will become immediately due and payable upon demand. Failure to exercise such option by Lender will not constitute a waiver of the right to exercise it at any other time.

No renewal or extension granted, or any indulgence shown to, or any release of (except for any explicit release of the obligations of Maker under this Note that is executed by Lender), or any

dealings between Lender and any other Person now or hereafter interested in this Note or in any collateral securing this Note, whether as owner, encumbrancer, grantor, or otherwise, will discharge or in any way affect the obligations of Maker hereunder.

Maker will remain primarily liable on this Note and the Loan Documents given to secure the same until full payment, unaffected by any alienation of all or any part of any collateral securing this Note, by any agreement or transaction between any holder of this Note and any alienee as to payment of principal, interest or other monies, by any forbearance or extension of time, guaranty or assumption by others, or by any other matter, as to all of which notice is hereby waived by Maker.

All provisions of this Note, the Credit Agreement and the Loan Documents are expressly subject to the condition that in no event, whether by reason of acceleration of maturity of the indebtedness evidenced hereby or otherwise, will the amount paid or agreed to be paid to Lender hereunder and deemed interest under applicable law exceed the Maximum Rate. If from any circumstances whatsoever fulfillment of any provision hereof or any of such other agreements will cause the amount paid to exceed the Maximum Rate, then, *ipso facto*, the amount paid to Lender will be reduced to the Maximum Rate, and if from any such circumstances Lender will ever receive interest which exceeds the Maximum Rate, such amount which would be excessive interest will be applied to the reduction of the principal of this Note and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal of this Note, such excess will be refunded to Maker. All sums paid or agreed to be paid to Lender for the use, forbearance or detention of the indebtedness of Maker to Lender will, to the extent permitted by applicable law, (i) be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full, so that the actual rate of interest on account of such indebtedness does not exceed the Maximum Rate throughout the term thereof; (ii) be characterized as a fee, expense or charge

other than interest; and (iii) exclude any voluntary prepayments and the effects thereof. The terms and provisions of this paragraph will control and supersede every other provision of all agreements between Lender and Maker.

This Note is secured by the Loan Documents.

This Note may not be modified or terminated orally.

This Note for all purposes will be enforced and construed in accordance with the substantive law of the State of Ohio, without resort to that state's conflict of laws rules.

MAKER ACKNOWLEDGES AND AGREES THAT THERE MAY BE A CONSTITUTIONAL RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY CLAIM, DISPUTE OR LAWSUIT ARISING BETWEEN OR AMONG MAKER AND LENDER, BUT THAT SUCH RIGHT MAY BE WAIVED. ACCORDINGLY, MAKER AGREES THAT, NOTWITHSTANDING SUCH CONSTITUTIONAL RIGHT, IN THIS COMMERCIAL MATTER MAKER BELIEVES AND AGREES THAT IT WILL BE IN MAKER'S BEST INTEREST TO WAIVE SUCH RIGHT, AND, ACCORDINGLY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, MAKER HEREBY WAIVES SUCH RIGHT TO A JURY TRIAL, AND FURTHER AGREES THAT THE BEST FORUM FOR HEARING ANY CLAIM, DISPUTE, OR LAWSUIT, IF ANY, ARISING IN CONNECTION WITH THIS NOTE, THE LOAN DOCUMENTS, OR THE RELATIONSHIP AMONG MAKER AND LENDER, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, OR WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE, WILL BE A COURT OF COMPETENT JURISDICTION SITTING WITHOUT A JURY. IN THE EVENT OF A DISPUTE UNDER THIS NOTE, MAKER HEREBY AGREES THAT EXCLUSIVE JURISDICTION AND VENUE LIES IN A COURT OF COMPETENT JURISDICTION IN CUYAHOGA COUNTY, OHIO. THESE PROVISIONS WILL NOT BE DEEMED TO HAVE

BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY MAKER OR LENDER EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY BOTH OF THEM.

IN THE EVENT OF NON-PAYMENT BY MAKER OF ANY AMOUNTS DUE HEREUNDER, WHICH NON-PAYMENT CONSTITUTES A DEFAULT (AS DEFINED IN THE CREDIT AGREEMENT), THE ENTIRE BALANCE OF PRINCIPAL THEN REMAINING UNPAID, WITH ACCRUED INTEREST THEREON (INCLUSIVE OF CURRENT INTEREST AT THE DEFAULT RATE AND DEFERRED INTEREST) WILL AT ONCE BECOME DUE AND PAYABLE AT THE OPTION OF THE HOLDER HEREOF, ON DEMAND.

Maker hereby waives notice of non-payment, demand, presentment, protest and notice thereof with respect to any and all instruments, notice of acceptance hereof, notice of loans or advances made, credit extended, collateral received or delivered, or any other action taken in reliance hereon, and all other demands and notices of any description, except such as are expressly provided for herein or in any of the other Loan Documents. No delay or omission on Lender's part in exercising any right, remedy or option will operate as a waiver of such or any other right, remedy or option or of any Default.

Any provision of this Note which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or effecting the validity or enforceability of such provisions in any other jurisdiction or proceeding.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Maker has caused this Note to be executed as an instrument under seal by the officer named below, hereunto duly authorized as of the date first above written.

LAGUNA RESERVE APTS INVESTOR
LLC, a Delaware limited liability company

By: _____
Name:
Its:

PROMISSORY NOTE

\$5,000,000.00

April 25, 2023

FOR VALUE RECEIVED, LAGUNA RESERVE APTS INVESTOR LLC, a Delaware limited liability company having a principal place of business at 46 Main Street, Suite 339, Monsey, New York 10952 (hereinafter referred to as “Maker”), promises to pay to the order of CLEVELAND INTERNATIONAL FUND – NRP WEST EDGE, LTD., an Ohio limited liability company, having offices at 12434 Cedar Road, Suite 15, Cleveland Heights, Ohio 44106 (hereinafter referred to as “Lender”), the principal sum of up to Five Million Dollars and 00/100 Dollars (\$5,000,000.00), or such lesser principal amount as may be outstanding hereunder on April 25, 2026 (the “Maturity Date”), together with interest in arrears from the date hereof on the unpaid principal balance from time to time outstanding at the rate or rates per annum specified in Section 2.2 of the Credit Agreement (as defined below).

This Promissory Note (this “Note”) is the Note referred to in that certain Credit Agreement of even date herewith (the “Credit Agreement”) by and among Maker, as “Borrower”, and Lender, as “Lender”, and is in all respects subject to the provisions of the Credit Agreement. Any capitalized terms used in this Note and not otherwise defined in this Note will have the same meaning as set forth in the Credit Agreement. In the event of any inconsistency between the terms and conditions of this Note and the terms and conditions of the Credit Agreement, the terms and conditions of the Credit Agreement will govern. All proceeds of this Note are advanced in accordance with the provisions of the Credit Agreement.

Current Interest hereunder will be payable in accordance with the terms of Section 2.2(a) of the Credit Agreement. Deferred Interest hereunder will be payable in accordance with the terms of Section 2.2(b) of the Credit Agreement.

As provided in Section 2.2(c) of the Credit Agreement, upon and after the occurrence and during the continuance of a Default, interest will be payable hereunder at an interest rate per annum equal to the Default Rate. In the event that any payment required under this Note remains unpaid for more than five (5) business days, a “late charge” of 5% of the overdue amount will become immediately due and payable without presentment or demand, and the unpaid amount will bear interest at the Default Rate until paid.

All sums payable hereunder are payable in lawful money of the United States of America and in immediately available funds by electronic transfer to Lender or as Lender or its successors or assigns may direct.

This Note may be prepaid only in accordance with the terms and conditions set forth in Section 2.6 of the Credit Agreement.

Whenever a day on which payment of interest or principal required to be made hereunder falls on a Saturday, Sunday or public holiday, such payment will be due on the next following normal Business Day, and where time is extended for the payment of principal by virtue of the due date thereof falling on a Saturday, Sunday or public holiday, such extended time will be included in the computation of interest.

At any time during the continuance of any Default, this Note, at the option of Lender, will become immediately due and payable upon demand. Failure to exercise such option by Lender will not constitute a waiver of the right to exercise it at any other time.

No renewal or extension granted, or any indulgence shown to, or any release of (except for any explicit release of the obligations of Maker under this Note that is executed by Lender), or any dealings between Lender and any other Person now or hereafter interested in this Note or in any collateral securing this Note, whether as owner, encumbrancer, grantor, or otherwise, will discharge or in any way affect the obligations of Maker hereunder.

Maker will remain primarily liable on this Note and the Loan Documents given to secure the same until full payment, unaffected by any alienation of all or any part of any collateral securing this Note, by any agreement or transaction between any holder of this Note and any alienee as to payment of principal, interest or other monies, by any forbearance or extension of time, guaranty or assumption by others, or by any other matter, as to all of which notice is hereby waived by Maker.

All provisions of this Note, the Credit Agreement and the Loan Documents are expressly subject to the condition that in no event, whether by reason of acceleration of maturity of the indebtedness evidenced hereby or otherwise, will the amount paid or agreed to be paid to Lender hereunder and deemed interest under applicable law exceed the Maximum Rate. If from any circumstances whatsoever fulfillment of any provision hereof or any of such other agreements will cause the amount paid to exceed the Maximum Rate, then, *ipso facto*, the amount paid to Lender will be reduced to the Maximum Rate, and if from any such circumstances Lender will ever receive interest which exceeds the Maximum Rate, such amount which would be excessive interest will be applied to the reduction of the principal of this Note and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal of this Note, such excess will be refunded to Maker. All sums paid or agreed to be paid to Lender for the use, forbearance or detention of the indebtedness of Maker to Lender will, to the extent permitted by applicable law, (i) be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full, so that the actual rate of interest on account of such indebtedness does not exceed the Maximum Rate throughout the term thereof; (ii) be characterized as a fee, expense or charge other than interest; and (iii) exclude any voluntary prepayments and the effects thereof. The terms and provisions of this paragraph will control and supersede every other provision of all agreements between Lender and Maker.

This Note is secured by the Loan Documents.

This Note may not be modified or terminated orally.

This Note for all purposes will be enforced and construed in accordance with the substantive law of the State of Ohio, without resort to that state's conflict of laws rules.

MAKER ACKNOWLEDGES AND AGREES THAT THERE MAY BE A CONSTITUTIONAL RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY CLAIM, DISPUTE OR LAWSUIT ARISING BETWEEN OR AMONG MAKER AND LENDER, BUT THAT SUCH RIGHT MAY BE WAIVED. ACCORDINGLY, MAKER AGREES THAT, NOTWITHSTANDING SUCH CONSTITUTIONAL RIGHT, IN THIS COMMERCIAL MATTER MAKER BELIEVES AND AGREES THAT IT WILL BE IN MAKER'S BEST INTEREST TO WAIVE SUCH RIGHT, AND, ACCORDINGLY, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, MAKER HEREBY WAIVES SUCH RIGHT TO A JURY TRIAL, AND FURTHER AGREES THAT THE BEST FORUM FOR HEARING ANY CLAIM, DISPUTE, OR LAWSUIT, IF ANY, ARISING IN CONNECTION WITH THIS NOTE, THE LOAN DOCUMENTS, OR THE RELATIONSHIP AMONG MAKER AND LENDER, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, OR WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE, WILL BE A COURT OF COMPETENT JURISDICTION SITTING WITHOUT A JURY. IN THE EVENT OF A DISPUTE UNDER THIS NOTE, MAKER HEREBY AGREES THAT EXCLUSIVE JURISDICTION AND VENUE LIES IN A COURT OF COMPETENT JURISDICTION IN CUYAHOGA COUNTY, OHIO. THESE PROVISIONS WILL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY MAKER OR LENDER EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY BOTH OF THEM.

IN THE EVENT OF NON-PAYMENT BY MAKER OF ANY AMOUNTS DUE HEREUNDER, WHICH NON-PAYMENT CONSTITUTES A DEFAULT (AS DEFINED IN THE CREDIT AGREEMENT), THE ENTIRE BALANCE OF PRINCIPAL THEN REMAINING UNPAID, WITH ACCRUED INTEREST THEREON (INCLUSIVE OF CURRENT INTEREST AT THE DEFAULT RATE AND DEFERRED INTEREST) WILL AT ONCE BECOME DUE AND PAYABLE AT THE OPTION OF THE HOLDER HEREOF, ON DEMAND.


Maker hereby waives notice of non-payment, demand, presentment, protest and notice thereof with respect to any and all instruments, notice of acceptance hereof, notice of loans or advances made, credit extended, collateral received or delivered, or any other action taken in reliance hereon, and all other demands and notices of any description, except such as are expressly provided for herein or in any of the other Loan Documents. No delay or omission on Lender's part in exercising any right, remedy or option will operate as a waiver of such or any other right, remedy or option or of any Default.

Any provision of this Note which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or effecting the validity or enforceability of such provisions in any other jurisdiction or proceeding.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Maker has caused this Note to be executed as an instrument under seal by the officer named below, hereunto duly authorized as of the date first above written.

LAGUNA RESERVE APTS INVESTOR
LLC, a Delaware limited liability company

By:  _____
Name: Mark Silber
Its: Authorized Signatory