

LOAN AGREEMENT BASIC TERMS

Effective Date: _____, 20____

This Loan Agreement (including this Loan Agreement Basic Terms, the Loan Agreement Terms and Conditions attached hereto and any and all exhibits and schedules attached hereto or thereto, collectively, as the same may be supplemented, amended, modified consolidated, extended, replaced, renewed and/or restated from time to time, this “*Agreement*” or “*Loan Agreement*”) is made and entered into by and among Developer and Defeasance Trust (individually a “*Co-Borrower*” and collectively, the “*Co-Borrowers*”), on one hand, and Lender, on the other hand. Co-Borrowers and Lender acknowledge and agree that the below Loan Agreement Basic Terms are applied under, and that the loan in the maximum principal balance of the Loan Amount (the “*Loan*”) from Lender to Co-Borrowers evidenced hereby is governed by, the Loan Agreement Terms and Conditions attached hereto and incorporated herein by reference. In consideration of the covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Co-Borrowers and Lender have duly executed this Agreement as of the date set forth above.

<p>Developer:</p>	<p>JACKSONVILLE I-C PARCEL ONE HOLDING COMPANY, a Delaware limited liability company</p> <p>Developer U.S. Taxpayer Identification: [_____]</p>	<p><u>Address:</u> Jacksonville I-C Parcel One Holding Company LLC c/o The Cordish Companies 601 East Pratt Street, Sixth Floor Baltimore, Maryland 21201 Attn: President</p> <p><u>With copies to:</u> Jacksonville I-C Parcel One Holding Company Investors, LLC c/o The Cordish Companies 601 East Pratt Street, Sixth Floor Baltimore, Maryland 21201 Attn: General Counsel</p> <p><u>And to:</u> Gecko Investments, LLC 1 TIAA Bank Field Drive Jacksonville, Florida 32202 Attn: Megha Parekh, Legal</p>	<p>JACKSONVILLE I-C PARCEL ONE HOLDING COMPANY, LLC, a Delaware limited liability company</p> <p>By: Jacksonville I-C Holding Company Investors, LLC, a Maryland limited liability company</p> <p>By: _____ Blake L. Cordish Authorized Person</p>
<p>Defeasance Trust:</p>	<p>JACKSONVILLE SHIPYARDS DEFEASANCE TRUST, DST, a Delaware statutory trust, under Trust Agreement dated [_____] (the “<i>Defeasance Trust Agreement</i>”)</p> <p>Defeasance Trust U.S. Taxpayer Identification: [_____]</p>	<p><u>Defeasance Trust’s Address:</u> Jacksonville Shipyards Trust Manager, LLC 336 Via de la Paz Los Angeles, California 90272</p> <p><u>With copies to:</u> Dentons US LLP One Metropolitan Square, Suite 3000 St. Louis, Missouri 63102 Attn: Danette Davis, Esq.</p>	<p>JACKSONVILLE SHIPYARDS DEFEASANCE TRUST, DST, a Delaware statutory trust, under Trust Agreement dated [_____] (the “<i>Defeasance Trust Agreement</i>”)</p> <p>By: Jacksonville Shipyards Trust Manager, LLC, a Delaware limited liability company</p> <p>By: _____ Name: Alan Bornstein Title: President</p>
<p>Lender:</p>	<p>CITY OF JACKSONVILLE</p>	<p><u>Lender’s Address:</u> 117 W. Duval Street, Suite 300 Jacksonville, Florida 32202 Attn: Director of Finance</p> <p><u>With a copy to:</u></p>	<p>CITY OF JACKSONVILLE</p> <p>By: _____ Lenny Curry, Mayor</p> <p>Attest:</p>

		Office of General Counsel 117 W. Duval St., Suite 480 Jacksonville, FL 32202 Attn: Corporation Secretary	By: _____ James R. McCain, Jr. Corporation Secretary Form Approved: _____ Office of General Counsel
<i>Loan Amount:</i>	Not to exceed \$65,500,000		
<i>Defeasance Rate</i>	20%		

LOAN AGREEMENT TERMS AND CONDITIONS

RECITALS:

- A.** Developer and Lender have entered, or will enter into, a development agreement (the “*Development Agreement*”) for construction and/or development by Developer of the Mixed-Use Component and the Hotel Component as such terms are defined in the Development Agreement (together, the “*Project*”) and, in connection with such Project, Developer desires to obtain the Loan from Lender.
- B.** Lender is willing to make the Loan subject to and in accordance with the terms and conditions of this Agreement and the other Loan Documents, which include, among other things, (i) Developer’s establishment of Defeasance Trust, as a Co-Borrower hereunder, the proceeds of which Defeasance Trust (or so much thereof as necessary to repay the principal balance of the Loan) will be paid to the Lender on or before the Maturity Date in repayment of the Loan, (ii) Developer’s payment of the Defeasance Payment required herein, and (iii) a pledge of the assets of Defeasance Trust to Lender to secure the Loan pursuant to that certain Pledge and Collateral Agreement of even date herewith executed by Co-Borrowers in favor of Lender, securing the Note (as defined below) and covering the Collateral, as such term is defined therein (as the same may be supplemented, amended, modified, consolidated, extended, replaced, renewed and/or restated from time to time (the “*Pledge*”).
- C.** The Loan will be advanced by Lender to or at the direction of Developer for use in connection with the development and operation of the Project; provided, however, as a condition to Defeasance Trust’s agreement to become a Co-Borrower hereunder, Developer shall be obligated to transfer to the Defeasance Trust the applicable Defeasance Payment in connection with each Advance hereunder.

WITNESSETH:

1. INCORPORATION OF RECITALS; DEFINITIONS. The recitals appearing at the beginning of this Loan Agreement Terms and Conditions and the Loan Agreement Basic Terms are incorporated herein and expressly made a part hereof. Capitalized terms used in this Agreement and the other Loan Documents shall, unless otherwise defined in the body of this Agreement, such other Loan Documents, or the Development Agreement have the meanings ascribed to such terms in the Loan Agreement Basic Terms.

2. LOAN TERMS.

(a) The Loan shall be evidenced by that certain Promissory Note of even date herewith executed by Co-Borrowers in favor of Lender in the principal amount of the Loan Amount, as the same may be supplemented, amended, modified, consolidated, extended, replaced, renewed and/or restated from time to time (the “*Note*”) and shall be secured by, among other things, the Pledge (the Note, the Pledge, this Agreement, any Account Control Agreement (as defined in the Pledge) and all other documents and instruments of any nature whatsoever executed and delivered in connection with the Loan and any extensions, modifications, amendments and renewals thereof are collectively referred to herein as the “*Loan Documents*”).

(b) Lender agrees, on the terms and conditions set forth in this Agreement, that upon receipt of a Disbursement Request – Non-Public Costs submitted by Co-Borrowers and so long as there is no Event of Default under the Development Agreement, Lender shall make the advances of the Loan (each, an “*Advance*”) to the extent required pursuant to Section 8.3 of the Development Agreement in the maximum aggregate principal amount of the Loan Amount; provided the principal balance of the Loan shall in no event exceed the Loan Amount. Co-Borrowers agree to use the Loan funds advanced by Lender solely for the construction of the Project. Lender shall make Advances of the Loan in such amount as Lender may reasonably determine, from time to time, but no more frequently than once every thirty (30) days. Notwithstanding anything in this Agreement to the contrary, Co-Borrowers hereby authorize and direct Lender to disburse each Advance directly to or at the direction of the Developer; provided, however, Lender shall, immediately after making each Advance to or at the direction of Developer, deliver to Defeasance Trust written notice providing the date and amount of such Advance and the amount of Defeasance Payment required in connection with such Advance and further provided that each such Advance shall be conditioned upon written confirmation from the Defeasance Trust to Lender that it received the Defeasance Payment required in connection with all prior Advances for which Defeasance Trust received the notice from Lender required pursuant to the terms hereof. Within two (2) Business Days after each Advance, Developer shall transfer to the Defeasance Trust an amount equal to the Defeasance Payment corresponding to such Advance and, for avoidance of doubt, receipt of such Defeasance Payment by the Defeasance Trust shall be an express condition precedent to any future Advances of the Loan.

(c) The term of the Loan shall commence on the date hereof and continue through the Maturity Date. If not sooner paid, the principal and other sums of any nature whatsoever which shall or may become due and payable by Co-Borrowers pursuant to the provisions of the Loan Documents (collectively, the “*Debt*”) shall be due and payable on the fiftieth (50th) anniversary of the Effective Date (or, if such date is not a Business Day, the immediately preceding Business Day); provided that the

Maturity Date shall be subject to acceleration to an earlier date (i) if at any time prior to the fiftieth (50th) anniversary of the Effective Date the balance of the Trust Estate (as defined in the Defeasance Trust Agreement) equals or exceeds the aggregate amount of Debt and all other costs, expenses and reserves required to be paid, reimbursed or reserved pursuant to the terms of the Defeasance Trust Agreement or (ii) pursuant to other provisions of this Agreement, any of the other Loan Documents or the Defeasance Trust Agreement (such date, as the same may be accelerated, the “*Maturity Date*”).

(d) All payments shall be made, without set-off, deduction or counterclaim, to Lender, or the legal holder of the Note, as set forth in the Note. The principal balance of the Loan (including any amounts added to principal under the Loan Documents) shall not bear interest prior to the Maturity Date.

3. LIMITATION ON RECOURSE; DEFEASANCE PAYMENT. As used herein, “*Defeasance Payment*” means an amount Advanced to Defeasance Trust equal to the Defeasance Rate multiplied by the total amount of the Advance occurring as of the date of such payment; and “*Defeasance Rate*” means the rate set forth in the Loan Agreement Basic Terms. In no event shall Developer be personally liable to repay the principal balance of the Loan, but Developer shall be personally liable to pay the Defeasance Payment to Defeasance Trust as required hereby, which payment shall be made as provided in Section 2(b) hereof. Subject to the last two sentences of this Section, Defeasance Trust shall be liable to repay the Debt only if and to the extent Developer pays the Defeasance Payment to the Defeasance Trust in accordance with the terms of this Agreement. If Developer shall fail to pay any Defeasance Payment to the Defeasance Trust in accordance with the terms of this Agreement, Defeasance Trust may (but shall not be required to) elect, by written notice to Lender and Developer delivered no less than five (5) Business Days prior to the next scheduled Advance to withdraw its authorization for automatic Advances pursuant to Section 2(b) and, in such event, all future Advances under the Loan shall cease until such failure to pay the Defeasance Payment has been cured to the satisfaction of Defeasance Trust and Lender, each in its sole discretion. The parties hereto acknowledge that after payment in full of the Debt and all other sums required by the Defeasance Trust Instruments, Engagement Agreement and/or License Agreement (as such terms are defined in the Defeasance Trust Agreement), any excess amounts remaining in the Defeasance Trust, if any, shall be paid to Lender. Notwithstanding anything to the contrary herein, the Lender acknowledges and agrees to the order of distributions from the Defeasance Trust set forth in the Defeasance Trust Agreement, which requires the payment or reimbursement of, or reserves for, certain claims, costs and expenses of the Trustee, Manager and certain other parties, if applicable, prior to distributions for payment of the Debt. If the amount in the Defeasance Trust on the Maturity Date is not sufficient to repay the Debt for any reason (including, without limitation, due to Lender’s failure to cease Advances pursuant to the terms of this Section 3), Lender acknowledges that it has no recourse to Developer or Defeasance Trust (or to Trustee or Manager thereof) for the deficiency; provided, however, Developer shall be personally liable to pay the Defeasance Payment to the Defeasance Trust in accordance with the terms of this Agreement.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS.

(a) Defeasance Trust represents, warrants and covenants to Lender and Developer as follows:

(1) Defeasance Trust’s exact legal name and U.S. taxpayer identification number are as set forth in the Basic Terms. Defeasance Trust is an irrevocable Delaware statutory trust created pursuant to and validly existing and in good standing under the Laws of the state of Delaware; the trustee of the Defeasance Trust (“*Trustee*”) is duly appointed and authorized to act as trustee of Defeasance Trust; the manager of the Defeasance Trust (“*Manager*”) is duly appointed and authorized to act as manager of Defeasance Trust; the Manager has the full power and authority to execute and deliver the Loan Documents on behalf of Defeasance Trust and the same constitute the binding and enforceable obligations of Defeasance Trust in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors’ rights generally and subject to the applicability of general principles of equity. Defeasance Trust shall comply in all material respects with the terms and conditions of the Defeasance Trust Agreement and any other formation and trust documents with respect to Defeasance Trust (collectively, the “*Defeasance Trust Instruments*”).

(2) The execution, delivery and performance by Defeasance Trust of the Loan Documents: (i) are duly authorized and do not require the consent or approval of any other party or any Governmental Authority which has not been obtained; and (ii) will not violate any Law or result in the imposition of any lien, charge or encumbrance upon the assets of Defeasance Trust. The Loan Documents have been duly executed and delivered and constitute the legal, valid and binding obligations of Defeasance Trust, enforceable in accordance with their respective terms.

(3) There are no actions, suits or proceedings pending or, to the best knowledge of Defeasance Trust, threatened, or any basis therefor, against or affecting Defeasance Trust at law or in equity, in or before any Governmental

Authority, which if adversely determined would be reasonably likely to impair the ability of Defeasance Trust to perform its or his or her obligations under this Agreement and/or the other Loan Documents.

(4) Neither the execution, delivery or performance by Defeasance Trust of the Loan Documents to which it is a party, nor compliance by Defeasance Trust with the terms and conditions thereof, nor the consummation of the transactions contemplated therein (i) will contravene any provision of any law applicable to Defeasance Trust, (ii) will conflict with or result in any breach of or constitute a tortious interference with any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any lien (except pursuant to the respective Loan Document) upon any of the property or assets of Defeasance Trust pursuant to the terms of any contractual obligation to which Defeasance Trust is a party or by which it or any of its property or assets is bound or to which it or any of its property or assets may be subject, (iii) will violate any provision of any trust agreement or other organizational document of Defeasance Trust, or (iv) requires any approval or consent of partners, members or any other person or entity which has not been obtained.

(b) Developer represents, warrants and covenants to Lender and Defeasance Trust as follows:

(1) Developer's exact legal name and U.S. taxpayer identification number are as set forth in the Basic Terms. If Developer is an entity or organization: Developer is duly organized, validly existing and in good standing under the Laws of the state of its formation or existence set forth in the Loan Agreement Basic Terms; Developer is qualified to do business and in good standing under the Laws of the state in which the Project is located (the "*State*"); Developer has the full power and authority to execute and deliver the Loan Documents and to borrow the Loan and enter into and perform its obligations under the Loan Documents. If Developer is a natural person, Developer is not a "foreign person" within the meaning of §1445(f)(3) of the Internal Revenue Code, as amended.

(2) The execution, delivery and performance by Developer of the Loan Documents: (i) are duly authorized and do not require the consent or approval of any other party or Governmental Authority which has not been obtained; and (ii) will not violate any Law or result in the imposition of any lien, charge or encumbrance upon the assets of Developer. The Loan Documents have been duly executed and delivered and constitute the legal, valid and binding obligations of Developer, enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally and subject to the applicability of general principles of equity.

(3) There are no actions, suits or proceedings pending or, to the best knowledge of Developer, threatened, or any basis therefor, against or affecting Developer at law or in equity, in or before any Governmental Authority, which if adversely determined would be reasonably likely to impair the ability of Developer to perform its or his or her obligations under this Agreement and/or the other Loan Documents.

(4) Neither the execution, delivery or performance by Developer of the Loan Documents to which it is a party, nor compliance by Developer with the terms and conditions thereof, nor the consummation of the transactions contemplated therein (i) will contravene any provision of any law applicable to Developer, (ii) will conflict with or result in any breach of or constitute a tortious interference with any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any lien (except pursuant to the respective Loan Document) upon any of the property or assets of Developer pursuant to the terms of any contractual obligation to which Developer is a party or by which it or any of its property or assets is bound or to which it or any of its property or assets may be subject, (iii) will violate any provision of any organizational document of Developer, if applicable, or (iv) requires any approval or consent of partners, members or any other person or entity which has not been obtained.

(5) Developer has filed (or has obtained effective extensions for filing) all Federal, state and other tax and similar returns and has paid or provided for the payment of all taxes and assessments due thereunder through the date of this Agreement. Developer shall timely file all Federal, state and other tax and similar returns required to be filed by it and pay all such taxes and assessments which may become payable during the term of the Loan.

(6) No part of the proceeds of the Loan will be used to purchase or carry any "margin stock" within the meaning of Regulations T, U or X of the Board of Governors of the Federal Reserve System or to extend credit to others for

the purpose of purchasing or carrying any such margin stock or to reduce or retire any indebtedness incurred for any such purpose.

(7) Developer shall comply with all Laws applicable to Developer now or hereafter in effect; provided, however, Developer may contest the validity of such Laws so long as (a) Developer is diligently contesting the same by appropriate legal proceedings in good faith and at its own expense, and (b) such contest will not subject Developer to any potential civil or criminal liability.

(c) Lender represents and warrants to Developer and Defeasance Trust as follows:

(1) Lender's exact legal name is as set forth in the Basic Terms. Lender is organized and existing under its charter (if applicable) and the constitution and Laws of the State and has all necessary power and authority pursuant to its charter (if applicable) and the constitution and Laws of the State to (i) enter into and perform its obligations under this Agreement and the other Loan Documents and (ii) make the Loan, hold a security interest in the Collateral as security for payment of the Loan, and perform its obligations under the Loan Documents.

(2) Lender has taken all action necessary to be taken by it for the authorization, execution and delivery by Lender of this Agreement and the other Loan Documents, and this Agreement and the other Loan Documents have been duly authorized, executed and delivered by the Lender.

(3) The authorization, execution and delivery by Lender to the Loan Documents to which it is a party and compliance by Lender with the provisions thereof do not and will not in any material respect conflict with, or constitute a violation of, breach of or default under (i) any federal or State constitutional or statutory provision, (ii) any agreement or other instrument to which Lender is bound (including its charter, if applicable), or (iii) any order, rule, regulation, decree or ordinance of any Governmental Authority having jurisdiction over Lender.

(4) No consent, approval, authorization or order of any Governmental Authority is required to be obtained that has not already been obtained by Lender as a condition precedent to the making of the Loan by Lender or the adoption or execution and delivery by Lender of this Agreement, the other Loan Documents, or the performance of its obligations hereunder or thereunder.

5. EVENTS OF DEFAULT. The term "*Event of Default*" as used in this Agreement shall mean the occurrence of any one or more of the following events:

- (a) Developer fails to transfer to the Defeasance Trust the applicable Defeasance Payment in connection with any Advance.
- (b) Subject to Section 3 hereof, Defeasance Trust, as Co-Borrower, fails to pay the Debt owing under the Loan Documents on the Maturity Date; or
- (c) The Collateral is attached, the assets of Defeasance Trust are frozen or the Trustee is otherwise prevented by bankruptcy, receivership or similar judicial proceeding from directing the disbursement of sums from Defeasance Trust; or
- (d) A default occurs and continues beyond applicable grace and/or cure periods under any other Loan Document.

Upon the occurrence of any Event of Default, Lender may, at its option and in its sole discretion, pursue any and all remedies provided for in the Loan Documents or otherwise available at law or in equity. Without limiting the foregoing, upon an Event of Default, subject at all times to Section 3 above, Lender shall be entitled to recover from Defeasance Trust (but, for avoidance of doubt, not from Developer) expenses incurred by Lender in connection with enforcement of the Loan Documents (including fees of receivers, court costs, filing and recording fees and reasonable attorneys' fees and costs), expenses incurred by Lender to preserve and maintain Collateral or to perfect and maintain perfected liens upon such Collateral, including any advances made to pay taxes or insurance or otherwise to preserve the liens created pursuant to the Loan Documents, and finance charges on the full amount of Debt, all of which such costs, expenses and charges shall be secured by the Loan Documents. In addition, Lender shall be entitled to recover from Developer costs and expenses incurred by Lender in connection with the enforcement of the Defeasance Payment obligations of Developer hereunder, all of which such costs and expenses shall be secured by the Loan Documents.

6. ACKNOWLEDGMENT; WAIVER; LIMITATION OF MANAGER'S LIABILITY.

(a) Each of Lender and Developer acknowledges and agrees that neither Defeasance Trust, Manager, Trustee, UTW Fanfaire, LLC, UTW Capital, LLC nor any of their respective members, partners, shareholders, officers, directors, agents, employees, trustees, affiliates, successors or assigns (each a “*Breadbox Entity*” and, collectively, the “*Breadbox Entities*”) has made any representations or warranties, express or implied, with respect to any aspect of the Loan, the Project, or the Collateral, including, without limitation (i) the existing or future solvency or financial condition or responsibility of Developer, (ii) the payment or collectability of the Loan, (iii) the validity, enforceability or legal effect of the Loan Documents, or (iv) the validity or effectiveness of the security interests contemplated by the Loan Documents. Each of Lender and Developer has made or caused to be made an independent investigation of all such matters, and all other matters affecting such party’s decision to enter into the Loan. Lender acknowledges that the Breadbox Entities may from time to time have information regarding a Co-Borrower that is not (and will not be made) available to the Lender under the Loan. Lender acknowledges that, notwithstanding the fact that any Breadbox Entity may have made available to Lender certain information contained in its files, no Breadbox Entity has made representations or warranties, oral or written, upon which such Lender has relied or is entitled to rely and Lender has not relied in any manner upon any such materials which may have been made available to it by any Breadbox Entity or upon any judgment, determination or statements of any Breadbox Entity in entering into this Agreement or in making the Loan.

(b) Lender acknowledges that it has, independently and without reliance upon any Breadbox Entity, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and the other Loan Documents. Lender also acknowledges and agrees that it will, independently and without reliance upon any Breadbox Entity, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents. Except for notices, reports and other documents and information actually expressly required to be furnished to Lender by Defeasance Trust hereunder, any Breadbox Entity shall not have any duty or responsibility to provide Lender with any credit or other information concerning the affairs, business, prospects, operations, properties, financial and other condition or creditworthiness of Defeasance Trust.

(c) This Agreement and the other Loan Documents to which Defeasance Trust is a party are executed and delivered by Manager, not individually or personally but solely as Manager of Defeasance Trust, in the exercise of the powers and authority conferred and vested in it under the Defeasance Trust Agreement. Each of the representations, undertakings and agreements herein made on the part of Defeasance Trust is made and intended not as personal representations, undertaking and agreements by Manager but is made and intended for the purposes of binding only Defeasance Trust. It is acknowledged and agreed by the parties hereto that (x) Manager’s sole duties are to take such action or refrain from taking such action as set forth in the Defeasance Trust Agreement, (y) Manager shall have no duty or obligation under or in connection with this Agreement, any other Loan Documents or any other transaction or document contemplated hereby, except as expressly provided by the terms of the Defeasance Trust Agreement, and no implied fiduciary or other duties, covenants, obligations or liabilities shall be read into this Agreement, the Loan Documents or the Defeasance Trust Agreement against Manager and (z) to the fullest extent permitted by applicable law, (i) Manager’s duties shall be restricted to those expressly set forth in the Defeasance Trust Agreement, (ii) Manager shall have no fiduciary duties whatsoever to Lender, Co-Borrowers or any other parties (other than Manager’s implied contractual covenant of good faith and fair dealing), and (iii) Lender and Developer hereby agree to assert no claim or action against the Breadbox Entities on any theory of liability for breach of fiduciary duty, all of which claims Lender and Developer hereby irrevocably waive. In furtherance and in no way limiting the foregoing, Lender and Developer expressly acknowledge that (A) Breadbox Entities shall be entitled to rely solely on notice from Lender with respect to the date and/or amount of any Advances hereunder and the amount of the Defeasance Payment required in connection therewith, (B) Breadbox Entities shall have no duty or obligation to independently confirm, inquire into, monitor or question any such information, and (C) Breadbox Entities shall have no liability, and Lender and Developer hereby irrevocably waive any claims against such Breadbox Entities, in connection with any inaccuracy of such information.

(d) Nothing contained herein or in any other Loan Document shall be construed as creating any liability or obligation, either express or implied, of Breadbox Entities, individually or personally, all such liability or obligations, if any, being expressly waived by the parties hereto and any person or entity claiming by, through or under the parties hereto, and under no circumstances shall Breadbox Entities be personally liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Defeasance Trust under this Agreement or the other Loan Documents.

(e) Each of Lender and Developer acknowledges and agrees that (i) the Breadbox Entities are expressly intended third party beneficiaries of this Section 6, above, and the Defeasance Payment obligations of Developer set forth in Section 3, above, (ii) each Breadbox Entity shall have the right to enforce the terms of Section 3 and this Section 6 directly against Lender and/or Developer, as applicable, and shall have standing to prosecute actions at law and in equity to enforce compliance with such provisions, and (iii) each of Lender and Developer irrevocably waives any right, power or privilege to which either of

them otherwise may be entitled to assert or claim, in a motion to dismiss or as a defense or otherwise, in any legal proceeding that a Breadbox Entity has no standing to enforce compliance with the provisions of the Defeasance Payment obligations set forth in Section 3 and/or this Section 6.

7. FURTHER ASSURANCES. Co-Borrowers shall promptly (a) cure any defects in the execution and delivery of the Loan Documents, and (b) execute and deliver, or cause to be executed and delivered, all such other documents, agreements and instruments as Lender may reasonably request to further evidence and more fully describe the Collateral for the Loan, to correct any omissions in the Loan Documents, to perfect, protect or preserve any liens created under any of the Loan Documents, or to make any recordings, file any notices, or obtain any consents, as may be necessary or appropriate in connection therewith and to consummate fully the transaction contemplated under this Agreement and the other Loan Documents; provided that the same does not change any of the economic terms of the Loan, cause any costs to Co-Borrowers, increase any Co-Borrower's obligations or diminish any Co-Borrower's rights under this Agreement and the other Loan Documents, in each case, other than to a *de minimis* extent.

8. INCORPORATION OF PROVISIONS. The Note, the Pledge and the other Loan Documents are subject to the conditions, stipulations, agreements and covenants contained herein to the same extent and effect as if fully set forth therein until this Agreement is terminated by payment in full, or cancelation, of the Debt.

9. CONSTRUCTION OF AGREEMENT. The titles and headings of the Sections of this Agreement have been inserted for convenience of reference only and are not intended to summarize or otherwise describe the subject matter of such Sections and shall not be given any consideration in the construction of this Agreement. All uses of the word "including" shall mean "including, without limitation" unless the context shall indicate otherwise. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined.

10. PARTIES BOUND, ETC. The provisions of this Agreement shall be binding upon and inure to the benefit of Co-Borrowers and Lender and their respective successors and assigns (except as otherwise prohibited by this Agreement).

11. NO JOINT VENTURE. This Agreement and the other Loan Documents do not create, and shall not be construed as creating a joint venture or partnership between Lender and any Co-Borrower, and nothing herein contained shall be deemed to constitute any Co-Borrower, the agent or representative of Lender for any purpose.

12. LOAN ASSUMPTION. No Co-Borrower shall assign, and no other person or entity shall be entitled to assume, the Loan without the prior written consent of Lender.

13. WAIVERS. Lender may at any time and from time to time waive any one or more of the conditions contained herein, but any such waiver shall be deemed to be made in pursuance hereof and not in modification thereof, and any such waiver in any instance or under any particular circumstance shall not be considered a waiver of such condition in any other instance or circumstance.

14. GOVERNING LAW; JURISDICTION. This Agreement is and shall be deemed to be a contract entered into pursuant to the Laws of the State of New York and shall in all respects be governed, construed, applied and enforced in accordance with the Laws of the State of New York. To the maximum extent not prohibited by applicable law, each Co-Borrower and Lender hereby irrevocably: (a) submit to the jurisdiction of any New York state or United States federal court sitting in state of New York over any action or proceeding arising out of this Agreement, (b) agree that all claims in respect of such action or proceeding may be held and determined in such New York state or federal court, and (c) consent to the service of process in any such action or proceeding in either of said courts by mailing thereof by the other party by registered or certified mail, postage prepaid, to such Co-Borrower or Lender at its address specified in the Loan Agreement Basic Terms, or at such Co-Borrower's most recent mailing address as set forth in the records of the Lender. Each Co-Borrower and Lender agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit or proceeding in such state and hereby waive any defense on the basis of an inconvenient forum. As used in this Agreement, "**Governmental Authority(ies)**" means any court, legislature, council, agency, authority, board, bureau, commission, department, office or instrumentality of any nature whatsoever of any governmental or quasi-governmental unit, or any governmental, public or quasi-public authority, of any federal, state, county, city, borough, municipal government or other political subdivision of any of the foregoing, or any official thereof, whether now or hereafter in existence; "**Law(s)**" means, collectively, all federal, state, local and municipal laws, statutes, codes, ordinances, rules, rulings, orders, judgments, decrees, injunctions, arbitral decisions, regulations, authorizations, determinations, directives and any other requirements and/or provisions of all Governmental Authorities, whether now or hereafter in force, which may be or become applicable to a Co-Borrower,

the relationship of lender and borrower, Lender, the Collateral, any of the Loan Documents, or any part of any of them (whether or not the same may be valid) and all requirements, obligations and conditions of all instruments of record on the date hereof

15. SEVERABILITY. If any term, covenant or provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such term, covenant or provision.

16. NOTICES. All notices required or permitted hereunder shall be in writing, signed by the party giving such notice, and shall be deemed given when delivered personally one (1) business day after delivery to a reputable overnight delivery service providing a receipt, or two (2) business days after deposit in the United States mail, postage prepaid, certified with return receipt requested, at the address set forth in the Loan Agreement Basic Terms, or at such other address as may have been given in accordance with this provision.

17. RIGHT TO INSPECT. Lender and/or its representatives shall have the right to inspect the books and records of Defeasance Trust related to the Collateral at any time during the term of the Loan, upon reasonable written notice.

18. MODIFICATION. This Agreement may not be modified, amended or terminated, except by an agreement in writing executed by the parties hereto.

19. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument.

20. ELECTRONIC TRANSACTIONS. The words "execution," "signed," "signature," "delivery" and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

21. WAIVER OF JURY TRIAL. LENDER AND EACH CO-BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY OR ON BEHALF OF LENDER OR A CO-BORROWER WITH RESPECT TO THIS AGREEMENT, THE NOTE, THE OTHER LOAN DOCUMENTS OR OTHERWISE IN RESPECT OF THE LOAN, ANY AND EVERY RIGHT THEY MAY HAVE TO A TRIAL BY JURY.

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