

## **SCHEDULE I**

### **Definitions**

“**Acceptable Accounting Principles**” shall mean GAAP or such other accounting methods or principles acceptable to Lender from time to time.

“**Access Laws**” has the meaning set forth in Section 5.18.

“**Affiliate**” shall mean as to any Person, (i) any Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with such Person, (ii) any Person (directly or indirectly) owning or controlling 10% or more of the outstanding voting securities of or other ownership interests in such Person, (iii) any officer, director, partner, employee or member (direct or indirect and no matter how remote) of such Person, (iv) if the such Person is an individual, any entity for which such Person directly or indirectly acts as an officer, director, partner, employee or member, or (v) any entity in which such Person (together with the members of his family if the Person in question is an individual) owns, directly or indirectly through one or more intermediaries an interest in any class of stock (or other beneficial interest in such entity) of 10% or more. Any reference in this Agreement to a “**Person and an Affiliate**” shall be deemed to refer to such Person and an Affiliate of such Person and any references in this Agreement to a “**Person or an Affiliate**” shall be deemed to refer to such Person or an Affiliate of such Person. As used in this Agreement, the term “**control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy and/or policies of a Person, whether through ownership of voting securities or other ownership interests, by contract or otherwise.

“**Affiliate Transaction**” shall mean any contract, agreement or other arrangement between Borrower (or any other Person if such contract, agreement or other arrangement is in any way related to the Property) and any Borrower Party or any Affiliate of a Borrower Party or pursuant to which any Borrower Party or any Affiliate of any Borrower Party or any constituent member, partner or stockholder of Borrower or any Borrower Party or any Affiliate of a Borrower Party (direct or indirect) will receive any benefit of any kind.

“**Agent**” has the meaning set forth in Section 8.2.1(a).

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

“**Annual Budget**” shall have the meaning specified in Section 5.12(d).

“**Applicable Interest Rate**” shall have the meaning set forth in the Note.

“**Approved Accounting Firm**” shall mean (a) one of the accounting firms commonly known as a “**Big Five**” accounting firm but specifically excluding Ernst & Young or (b) any other certified public accounting firm acceptable to Lender in its sole discretion.

“**Approved Annual Budget**” shall have the meaning set forth in Section 5.12(d).

“**Asbestos**” has the meaning set forth in the Environmental Indemnity.

“**Assignee**” has the meaning set forth in Section 8.2.1(a).

“**Assignment and Assumption Agreement**” has the meaning set forth in Section 8.2.1(a).

“**Assignment of Agreements**” shall mean, with respect to the Property, that certain first priority Assignment of Agreements, Permits and Contracts dated as of the date hereof, from Borrower, as assignor, to Lender, as assignee, assigning to Lender, subject to the terms thereof, all of Borrower’s interest in and to contracts, Licenses, permits and contracts necessary for the use and operation of the Property as security for the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Assignment of Leases**” shall mean that certain first priority Absolute Assignment of Leases and Rents, dated as of the date hereof, from Borrower, as assignor, to Lender, as assignee, assigning to Lender, subject to the terms thereof, all of Borrower’s interest in and to the Leases and Rents of the Property as security for the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Assignment of Management Agreement**” shall mean the Assignment of Management Agreement, dated as of the date hereof, from Borrower, as assignor, to Lender, as assignee, assigning to Lender, subject to the terms thereof, all of Borrower’s interest in and to Property Management Agreement as security for the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Award**” shall have the meaning set forth in Section 6.1.3(b).

“**Bankrupt Guarantor**” shall have the meaning set forth in Section 9.3.

“**Bankruptcy Code**” shall mean Title 11 of the United States Code, as amended from time to time.

“**Bankruptcy Laws**” shall mean the Bankruptcy Code together with any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors.

“**Borrower**” has the meaning in the recitals hereto.

“**Borrower Parties**” shall mean the collective reference to Borrower, any guarantor, indemnitor or surety of any of the Obligations and any other Person (other than Lender) that is a party to any of the Loan Documents that is not an Affiliate of Borrower. Individually, each of the Borrower Parties may be referred to herein as a “**Borrower Party**”.

“**Business Day**” shall mean a day on which commercial banks are not authorized or required by law to close in the State of New York or in the State where the Property is located.

“**Casualty**” shall have the meaning set forth in Section 6.1.1(j).

“**Casualty/Condemnation Involuntary Prepayments**” shall have the meaning set forth in Section 2.2.

“**Certificate of Sources and Uses of Funds**” shall mean the Certificate of Sources and Uses of Funds delivered to Lender in connection with the Loan.

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

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

“**Committed Amount**” means the maximum amount each Lender has agreed to lend at any one time outstanding to Borrower as part of the Loan and set forth in the Syndication Documents.

“**Condemnation**” shall have the meaning set forth in Section 6.1.3(a).

“**Condemnation Proceeds**” shall mean any Award in respect of any Condemnation.

“**Debt**” shall mean the outstanding principal amount set forth in, and evidenced by, the Note together with all interest accrued and unpaid thereon, the Exit Fee, and all other sums due to Lender in respect of the Loan under the Note, this Agreement or any other Loan Document.

“**Defaulting Lender**” has the meaning set forth in Section 8.8.2.

“**Default Rate**” shall have the meaning set forth in the Note.

“**Embargoed Person**” shall have the meaning set forth in Section 5.29(e).

“**Enforcement Costs**” shall mean any and all expenses, including reasonable legal expenses, attorneys’ fees and expert witness fees, (i) described in Section 7.4 of this Agreement, (ii) incurred or paid by Lender in protecting Lender’s interest in the Property, (iii) incurred in collecting any amount payable under this Agreement or the other Loan Documents, or (iv) incurred in enforcing Lender’s rights under this Agreement or the other Loan Documents or with respect to the Property, in each of clauses (i) through (iv) whether or not any legal proceeding is commenced hereunder or thereunder and whether or not any Default or Event of Default shall have occurred and is continuing, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such amounts are repaid to Lender.

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

“**Environmental Laws**” has the meaning set forth in the Environmental Indemnity.

“**Equity Contribution**” shall have the meaning set forth in Schedule II of this Agreement.

“**ERISA**” shall mean the Employee Retirement Income Security Act of 1974, as amended.

“**Event of Default**” shall have the meaning set forth in Section 7.1(a).

“**Excess Sales Proceeds**” shall have the meaning set forth in Section 13.7.

“**Executive Order**” shall have the meaning set forth in Section 5.29(a).

“**Exit Fee**” shall have the meaning set forth in the Note.

“**Extended Maturity Date**” shall mean that date that is 180 days from the Original Maturity Date.

“**Extension Fee**” shall mean twenty-five basis points (0.25%) of the principal balance of the Loan as of the date of the exercise of the Extension Option.

“**Extension Notice**” shall have the meaning set forth in Section 2.5(a).

“**Extension Option**” shall have the meaning set forth in Section 2.5.

“**Financial Statements**” shall mean a balance sheet, income statement and statement of changes in financial position prepared in accordance with Acceptable Accounting Principles, and setting forth all items of income and expense and such other information required under Acceptable Accounting Principles to fairly present the financial position and results of operation of Borrower and the Property and which shall at a minimum be consistent in scope, form and content with such statements delivered to Lender prior to the Closing Date, unless otherwise agreed by Lender, and which are otherwise reasonably acceptable to Lender.

“**Fiscal Year**” shall mean each twelve-month period commencing on January 1 and ending on December 31 during the term of the Loan.

“**Full Recourse Event**” shall have the meaning set forth in Section 9.3.

“**Funding Date**” has the meaning set forth in Section 8.7.1.

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

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

“**Guarantor**” shall mean David Schwartzman.

“**Guaranty of Recourse Obligations**” shall mean that certain Guaranty of Recourse Obligations executed by Guarantor, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Hazardous Substances**” has the meaning set forth in the Environmental Indemnity.

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

“**Indebtedness**” of a Person, at a particular date, means the sum (without duplication) at such date of (a) all indebtedness or liability for borrowed money; (b) obligations evidenced by bonds, debentures, notes, or other similar instruments; (c) obligations for the deferred purchase price of property or services (including trade obligations); (d) obligations under letters of credit; (e) obligations under acceptance facilities; (f) all guaranties, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations to purchase, to provide funds for payment, to supply funds, to invest in any Person, or otherwise to assure a creditor against loss; and (g) obligations secured by any Liens, whether or not the obligations have been assumed.

“**Indemnified Parties**” shall mean (a) Lender, (b) any prior or subsequent owner or holder of the Loan, (c) any Servicer or prior Servicer of the Loan, (d) any Investor or any prior Investor, (e) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any Investor or other third party, (f) any receiver or other fiduciary appointed in a foreclosure or other proceeding, (g) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (h) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties’ assets and business), in all cases whether during the term of the Loan or thereafter or as part of or following a foreclosure of the Loan.

“**Independent**” shall mean, when used with respect to any Person, a Person who (a) is in fact independent, (b) does not have any direct financial interest in any Borrower Party, or in any Affiliate of any Borrower Party or any Affiliate of any constituent partner, shareholder, member or beneficiary of any Borrower Party (direct or indirect), and (c) is not connected with any Borrower Party or any Affiliate of any Borrower Party or any Affiliate of any constituent partner, shareholder, member or beneficiary of any Borrower Party (direct or indirect) as an officer, employee, promoter, underwriter, trustee, partner, member, director or Person performing similar functions. Whenever it is herein provided that any Independent Person’s opinion or certificate shall be provided, such opinion or certificate shall state that the Person executing the same has read this definition and is Independent within the meaning thereof.

“**Independent Manager**” shall have the meaning set forth in Section 4.1(s)(xxv).

“**Insurance Premiums**” shall have the meaning set forth in Section 6.1.1(b).

“**Insurance Proceeds**” shall mean all proceeds received under Policies required to be maintained by Borrower.

“**Intended Use**” shall mean the use of the Property as a mixed use development including office space, retail and restaurant facilities, and parking facilities together with auxiliary facilities necessary for the operation thereof.

“**Investor**” shall have the meaning set forth in Section 8.1.1.

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

“**Lease**” shall mean any lease, occupancy agreement, sublease, sub-sublease, letting, license, concession or other agreement (whether written or oral and whether now or hereafter in effect) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of, any space in the Property, and every modification, amendment, assignment, termination, consent to assignment or other agreement relating to such lease, sublease, sub-sublease or other agreement entered into in connection with such lease, sublease, sub-sublease or other agreement and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto.

“**Legal Requirements**” shall mean all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting the Property or any part thereof or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, and all permits, Licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting the Property or any part thereof, including (i) Access Laws, (ii) applicable restrictive covenants, zoning ordinances and building codes, (iii) subdivision and land use laws and regulations, (iv) all applicable health and Environmental Laws and regulations, and (v) all standards and regulations of appropriate supervising boards of fire underwriters and similar agencies.

“**Lehman**” shall mean Lehman ALI Inc., a Delaware corporation.

“**Lender**” shall mean Lehman ALI Inc., a Delaware corporation, individually and as lead arranger and administrative agent for itself and certain co-lenders; provided, however, with respect to the use of the term in Section 8.2, “**Lender**” shall mean each lending institution that has entered into an Assignment and Assumption Agreement with Agent.

“**Lender Default Obligation**” has the meaning set forth in Section 8.8.2.

“**LIBOR Rate**” shall have the meaning set forth in the Note.

“**Licenses**” shall have the meaning set forth in Section 4.1(j).

“**Lien**” shall mean any mortgage, deed of trust, lien, pledge, hypothecation, assignment, security interest, or any other encumbrance, charge or transfer of, on or affecting the

Property or any portion thereof, or any interest of Borrower therein, including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, and mechanic's or materialmen's liens and other similar liens and encumbrances.

“**Loan**” shall mean the loan made by Lender to Borrower in the original principal amount set forth in, and evidenced by, the Note executed and delivered by Borrower.

“**Loan Documents**” shall mean, collectively, this Agreement, the Certificate of Sources and Uses, the Payment Direction Letter, the Note, the Security Instrument, the Lockbox Agreement, the Assignment of Leases, the Assignment of Agreements, the Environmental Indemnity, the Assignment of Management Agreement, the Guaranty of Recourse Obligations, all Uniform Commercial Code financing statements filed in connection with the Loan and all other documents evidencing, securing or otherwise executed and/or delivered by one or more of the Borrower Parties in connection with the Loan. Each of the Loan Documents may be referred to herein individually as a “**Loan Document**”.

“**Lockbox Account**” shall have the meaning set forth in the Lockbox Agreement.

“**Lockbox Agreement**” shall have the meaning set forth in Section 12.21.

“**Losses**” shall mean any and all claims, suits, liabilities (including strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs (including any and all costs and expenses incurred in the preservation, restoration and protection of the Property and any and all costs and expenses incurred by Lender to remedy any Partial Recourse Event), any deficiency claim in connection with the foreclosure of the Security Instrument, expenses, diminution in value of the Property, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement, punitive damages payable by Lender or any Indemnified Party, foreseeable consequential damages payable by Lender or any Indemnified Party, and damages and expenses of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense), including Enforcement Costs or any other amounts expended by Lender in connection with the Loan.

“**Major Lease**” shall mean any Lease of space on the Property in excess of 50,000 rentable square feet.

“**Material Adverse Change**” shall mean a material adverse change in (i) the assets, operations, or financial condition of Borrower or the Person in question, (ii) the ability to pay the Debt of Borrower or the Person in question in accordance with the terms hereof and otherwise comply with the material terms of this Agreement and the Loan Documents, (iii) the Property or the value thereof, (iv) the validity, priority or enforceability of this Agreement or any other Loan Document, (v) the ability of Lender to enforce its rights and remedies pursuant to this Agreement or any other Loan Documents, (vi) Lender's Lien on the Property or the priority of such Lien, or (vii) the Loan.

“**Material Adverse Effect**” shall mean a material adverse effect on (i) the assets, operations, or financial condition of Borrower or the Person in question, (ii) the ability to pay the Debt of Borrower or the Person in question in accordance with the terms hereof and otherwise

comply with the material terms of this Agreement and the Loan Documents, (iii) the Property or the value thereof, (iv) the validity, priority or enforceability of this Agreement or any other Loan Document, (v) the ability of Lender to enforce its rights and remedies pursuant to this Agreement or any other Loan Documents, (vi) Lender's Lien on the Property or the priority of such Lien, or (vii) the Loan.

**"Maturity Date"** shall have the meaning set forth in the Note.

**"Maximum Permitted Trade Payables"** shall mean unsecured trade payables incurred in the ordinary course of operating the Property and customarily satisfied within thirty (30) days in the aggregate amount not to exceed \$100,000.

**"Mezzanine Borrower"** shall mean LB/L-DS PASADENA HOLDING LLC, a Delaware limited liability company.

**"Mezzanine Lender"** shall mean LEHMAN BROTHERS HOLDINGS INC.

**"Mezzanine Loan"** shall have the meaning set forth in Section 5.21(f).

**"Mezzanine Loan Agreement"** shall mean the Mezzanine Loan Agreement of even date herewith executed and delivered in connection with the Mezzanine Loan.

**"Minimum Release Price"** shall mean (i) \$14,200,000.00 with respect to the Medical Office Building; (ii) \$560,000.00 with respect to any Residence; and (iii) 125% of the Loan amount allocated to any other parcel.

**"Monthly Servicing Fee"** shall mean an amount equal to one-twelfth of the product of (a) the outstanding principal amount of the Loan on and as of the last day of the calendar month immediately preceding the date on which the monthly servicing fee is due and payable to the Servicer, and (b) 0.0018%.

**"Note"** shall mean that certain Promissory Note dated as of the date hereof, made by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

**"Obligations"** shall mean any and all debt, liabilities and other obligations of Borrower, including all affirmative and negative covenants, to Lender or of any of the Borrower Parties in connection with the Loan or pursuant to the Loan Documents, including, without limiting the generality of the foregoing, the Debt.

**"Officer's Certificate"** shall mean a certificate delivered to Lender by Borrower, which is signed by an authorized senior officer of the manager, managing member or general partner of Borrower.

**"Organizational Documents"** shall mean (i) with respect to a corporation, such Person's certificate of incorporation and by-laws, and any shareholder agreement, voting trust or similar arrangement applicable to any of such Person's authorized shares of capital stock, (ii) with respect to a partnership, such Person's certificate of limited partnership, partnership

agreement, voting trusts or similar arrangements applicable to any of its partnership interests, (iii) with respect to a limited liability company, such Person's certificate of formation, limited liability company agreement or other document affecting the rights of holders of limited liability company interests, and (iv) any and all agreements between any constituent member, partner or shareholder of Borrower, including any contribution agreement or indemnification agreements. In each case, "Organizational Documents" shall include any indemnity, contribution, shareholders or other agreement among any of the owners of the entity in question.

**"Original Maturity Date"** shall mean that date which is 365 days from the effective date of the Note.

**"Origination Fee"** shall mean one percent (1%) of the original principal amount of the Loan.

**"Other Charges"** shall mean all maintenance charges, charges or amounts payable under any reciprocal easement agreement, ground rents, impositions other than Taxes, and any other charges (including any charges, payments or amounts, for which the failure to pay may give rise to a Lien against the Property), including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Property, now or hereafter levied or assessed or imposed against the Property or any part thereof.

**"Partial Recourse Event"** shall have the meaning set forth in Section 9.2.

**"Participant"** shall have the meaning set forth in Section 8.2.1(g).

**"Participations"** shall have the meaning set forth in Section 8.1.1.

**"Patriot Act"** shall have the meaning set forth in Section 5.29(a).

**"Payment Date"** shall mean the first day of each calendar month, or if such first day is not a Business Day, the next Business Day.

**"Payment Direction Letter"** shall mean the Payment Direction Letter delivered to Lender in connection with the Loan.

**"Percentage"** means with respect to each Lender, the percentage which its Committed Amount constitutes of the maximum amount of the Loan.

**"Permitted Encumbrances"** shall mean, with respect to the Property, collectively: (a) the Liens created by the Loan Documents, (b) all Liens, encumbrances and other matters disclosed in the Title Insurance Policy relating to the Property or any part thereof which have been approved by Lender and which do not in any event have a Material Adverse Effect, (c) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, and (d) statutory Liens for labor or materials securing sums not yet due and payable, provided Borrower has given advance written notice of same to Lender.

**"Permitted Transfers"** shall mean any Transfers of direct or indirect beneficial interests in Borrower, Master, LB/L – DS Pasadena Holding LLC, LB/Lakeside Capital Partners

IV LLC, DS Ventures, or LB/Lakeside Capital Managers IV LLC or their Affiliates, and any transfer permitted under the organizational documents of such entities, so long as Lehman Brothers Holdings Inc. or any Affiliate thereof remains in control of LB/Lakeside Capital Partners IV LLC.

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

“**Policies**” or “**Policy**” shall have the respective meanings specified in Section 6.1.1(b).

“**Premises**” shall have the meaning set forth in the granting clause of the Security Instrument with respect to the Property.

“**Principal**” shall mean each of David Schwartzman, Brad Woomer and Marc Annotti.

“**Prohibited Person**” shall have the meaning set forth in Section 5.29(b).

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

“**Property Management Agreement**” shall mean any property management agreement, construction management agreement, leasing agreement or any other agreement(s) for similar or related services, each of which must be acceptable to Lender, entered into by and between Borrower and the Property Manager, and pursuant to which the Property Manager is to provide management and other services with respect to the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Property Manager**” shall mean California Commercial Real Estate Services, a California corporation.

“**Purchase Agreement**” shall mean the purchase agreement, contract of sale or similar agreement pursuant to which Borrower acquired the Property, together with all amendments, modifications or supplements thereto and any other agreements between the seller thereunder and any of the Borrower Parties or their Affiliates related thereto.

“**Qualified Insurer**” shall have the meaning set forth in Section 6.1.1(b).

“**Rating Agency**” shall mean each of Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies (S&P), Moody’s Investors Service, Inc., Duff & Phelps Credit Rating Co. and Fitch, Inc., or any other nationally-recognized statistical rating agency which has been approved by Lender.

“**Recourse Event**” shall mean any Full Recourse Event or any Partial Recourse Event.

“**Release**” shall mean a discharge and satisfaction of the Lien of the Security Instrument.

“**Rent(s)**” shall mean all rents (including fixed minimum rent and percentage rent), rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, expense reimbursements and recoveries (including all assignment fees, consent fees, surrender fees, termination fees and the lessor’s share (or the share of any Affiliate of any Borrower Party) of any profits from any Tenant subletting or assignment) from Tenants, revenues, deposits (including security, utility and other deposits), accounts, cash, issues, fees, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources (including any Service Rights granted to any Person and any warrants, stock options or other rights granted to Borrower or its Affiliates in connection with any Lease) whether or not arising from or attributable to the Property, and proceeds, if any, from business interruption or other loss of income insurance, together with all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including all guarantees, letters of credit (including the proceeds thereof) and any other credit support given by any guarantor in connection therewith, cash or securities deposited under the Leases to secure the performance by the Tenants of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Premises and the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt.

“**Restoration**” shall have the meaning set forth in Section 6.1.2(a).

“**Secondary Market Transaction**” shall mean any transaction in which Lender (i) sells the Loan, the Note and the other Loan Documents to one or more Persons (including any Investors) as a whole loan or a portion thereof, (ii) participates or syndicates the Loan to one or more Investors, (iii) deposits the Loan (or a portion thereof), and the Loan Documents with a trust, which trust may sell certificates to Investors evidencing an ownership interest in the trust assets, including a Securitization, whether or not rated by a Rating Agency (iv) otherwise sells the Loan or interest therein to Investors, or (v) pledges the Loan or any rights thereunder as collateral for any borrowing.

“**Securities**” shall have the meaning set forth in Section 8.1.1.

“**Securitization**” shall have the meaning set forth in Section 8.1.1.

“**Security Deposits**” shall mean all security given to Borrower or any agent or Person acting on behalf of Borrower in connection with the Leases.

“**Security Instrument**” shall mean that certain first priority Deed of Trust with Absolute Assignment of Leases and Rents and Security Agreement and Fixture Financing

Statement, dated as of the date hereof, executed and delivered by Borrower as security for the Loan made to Borrower and encumbering the Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

“**Service Rights**” shall mean any agreements, contracts, rights, licenses or other interests of any type (whether exclusive or non-exclusive) granted or given to any Person to provide any products or services to or for or with respect to the Property, any Tenant or any occupants of the Property, including any of the same related to telecommunications, internet products or services, including, but not limited to, personal computer hardware and software, internet hardware and software, internet access services, printers, video display systems, audio sound systems and communication telephonic devices, as well as related and complementary products and services and any substitutes for, and items that are a technological evolution of, any of the foregoing products.

“**Servicer**” shall mean the servicer, if any, engaged by Lender with respect to the Loan.

“**Severed Loan Documents**” shall have the meaning set forth in Section 8.1.4.

“**Single Purpose Entity**” shall mean an entity, other than an individual, that is formed or organized solely for the purpose of holding, directly, an interest in the Borrower, does not engage in any business unrelated to the ownership of such interest, does not have any assets other than those related to the ownership of such interest, has its own separate books and records and its own accounts, and holds itself out as being an entity separate and apart from any other entity, and whose Organizational Documents contain provisions substantively similar to those contained in the Organizational Documents of the Borrower as of the date hereof relating to its purpose and separateness, and the requirement for a springing member or, if such entity is not a corporation, indirect, consent of an Independent Manager to the same types of transactions specified in Section 4.1(s)(xxv).

“**SPE Entity**” means any of Borrower or Mezzanine Borrower.

“**Subdivision Map**” shall have the meaning set forth in Section 5.27.

“**Subsidiary**” means, as to any Person, any other Person of which at least a majority of the outstanding voting stock or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or similar body of such corporation or other entity (irrespective of whether or not at the time stock of any other class or classes of such corporation or other entity shall or might have voting power by reason of the happening of any contingency) is at the time owned or controlled directly or indirectly by such Person or one or more of its Subsidiaries.

“**Survey**” shall mean a survey of the Property prepared by a surveyor licensed in the state where the Property is located and satisfactory to Lender and the company or companies issuing the Title Insurance Policy, and containing a certification of such surveyor satisfactory to Lender.

**“Syndication Documents”** means the collective reference to all co-lending agreements, participation agreements, intercreditor agreements or other agreements of any kind among the Lenders an/or Agent related to the Loan.

**“Tax and Insurance Escrow Fund”** shall have the meaning set forth in Section 6.2.

**“Taxes”** shall mean all real estate and personal property taxes, assessments, water rates or sewer rents now or hereafter levied or assessed or imposed against the Property or any part thereof, including (a) any ad valorem real or tangible personal property taxes levied against the Property and (b) any intangible personal property tax levied or imposed on Lender with respect to its ownership in the Loan.

**“Tenant”** shall mean each Person granted a possessory interest or right to use or occupy all or any portion of the Property pursuant to a Lease.

**“Term”** shall have the meaning set forth in Section 6.1.1(a).

**“Title Insurance Company”** shall mean a title insurance company or authorized agent acceptable to Lender that issues the Title Insurance Policy.

**“Title Insurance Policy”** shall mean the ALTA (or equivalent if ALTA is not available in the state where the Property is located) loan title insurance policy (or mortgagee title insurance policy or policies acceptable to Lender) issued with respect to the Property and insuring Lender (in an amount satisfactory to Lender) of the validity and priority of the Lien of the Security Instrument, with all endorsements thereto as required by Lender.

**“Transfer”** shall mean any sale, assignment, conveyance, alienation, mortgage, encumbrance, pledge, hypothecation or other transfer, including any swap, derivative or other transaction shifting the risks and rewards of ownership, whether voluntary or involuntary.

**“UCC”** or **“Uniform Commercial Code”** shall mean the Uniform Commercial Code as in effect in the State of California, as the same may be amended from time to time.

**“UCC Financing Statement”** shall mean a financing statement as defined by and in accordance with the requirements of the Uniform Commercial Code including all original financing statements or original fixture financing statements and any amendments, renewals, continuations or assignments thereof evidencing a security interest granted to Lender..

## SCHEDULE II

### Conditions Precedent

Each of the following shall be satisfied by Borrower as a condition precedent to the making of the Loan.

(a) Representations and Warranties; Compliance with Conditions. The representations and warranties of each Borrower Party contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date and no Material Adverse Change has occurred and no Event of Default shall have occurred and be continuing; and each Borrower Party shall be in compliance in all material respects with all terms and conditions set forth in this Agreement and in each other Loan Document on their part to be observed or performed.

(b) Delivery of Loan Documents; Title Insurance; Reports.

(i) Note, Loan Agreement, Security Instrument, Assignment of Leases, Assignments of Agreements and other Loan Documents. Lender shall have received from Borrower fully executed (and acknowledged if required) counterparts of the Note and all other Loan Documents and evidence that counterparts of the Security Instrument and the Assignment of Leases have been delivered to the Title Insurance Company for recording, so as to effectively create upon such recording valid and enforceable first priority Liens upon the Property, in favor of Lender, subject only to the Permitted Encumbrances.

(ii) UCCs. Lender shall have received from Borrower (A) such UCC financing statements as Lender shall require, and such financing statements shall have been filed of record in the appropriate filing offices in each of the jurisdictions required by Lender or delivered to the Title Insurance Company for filing so as to effectively create upon such filing a valid and enforceable first priority Lien on the Property in favor of Lender, subject only to the Permitted Encumbrances and (B) a list of the principal places of business, tax identification numbers, and doing business names for the Borrower and all other information as Lender may require to properly file such UCC financing statements, all certified by the Borrower.

(iii) Title Insurance. Lender shall have received the Title Insurance Policy dated as of the Closing Date, with co-insurance and/or reinsurance and direct access agreements acceptable to Lender. Such Title Insurance Policy shall (A) provide coverage in amounts satisfactory to Lender, (B) insure Lender that the Security Instrument creates a valid first Lien on the Property free and clear of all exceptions from coverage other than Permitted Encumbrances, (C) contain such endorsements and affirmative coverages as Lender may require and which are available in the state where the Property is located, (D) show good and marketable indefeasible fee simple title to the Property vested in Borrower, (E) name Lender as the insured, and (F) contain no “**creditors’ rights**” exception. The Title Insurance Policy shall be assignable. Lender also shall have received evidence that all premiums in respect of the Title Insurance Policy have been paid. The Lender shall have received satisfactory UCC financing statement, tax lien, judgment, bankruptcy, litigation and other Lien searches and reports conducted by a search firm acceptable to the Lender with respect to the Property and the Borrower Parties and

all other relevant Persons, such searches to be conducted in each of the locations as shall be required by Lender.

(iv) Survey. Lender shall have received a current title survey for the Property, certified to the Title Insurance Company and Lender and their successors and assigns pursuant to a certification in the form and content satisfactory to Lender and prepared by a professional and properly licensed land surveyor satisfactory to Lender in accordance with the 1997 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (or, if not available, the relevant state equivalent thereof). The survey should meet the classification of an "Urban Survey" and, if available, the following additional items from the list of "Optional Survey Responsibilities and Specifications" (Table A) should be added to the survey: 2, 3, 4, 6, 7, 8, 9, 10, 11 and 13 or any other additional items required by Lender. Such surveys shall reflect the same legal description contained in the Title Insurance Policy referred to above relating to the Property and shall include, among other things, a metes and bounds description of the real property comprising the Property reasonably satisfactory to Lender. The surveyor's seal shall be affixed to the survey and the surveyor shall provide a certification for the survey in form and substance acceptable to Lender. The surveyor's certification shall include a statement that the applicable Property is or is not in an area identified by the Federal Emergency Management Agency as an area having special flood hazards.

(v) Insurance. Lender shall have received valid certificates of insurance for all Policies required hereunder or under any of the Loan Documents, and evidence of the payment of all premiums payable for the existing policy period, which shall not be less than one year from the Closing Date.

(vi) Zoning. Lender shall have received a certificate of occupancy (or the equivalent) from the applicable city or county agency allowing for occupancy and operation of the Property reflecting the use of the Property on the Closing Date for its current use, and, at Lender's option, (A) letters or other evidence with respect to the Property from the appropriate municipal authorities (or other Persons) concerning applicable zoning, subdivision, building, environmental and other laws applicable to the Property, and (B) if available in the state where the Property is located, an ALTA 3.1 zoning endorsement with parking certification for the Title Insurance Policy, and (C) if required by Lender, a zoning opinion letter, in substance satisfactory to Lender. Lender shall have also received evidence satisfactory to Lender that the Property is independent of any other real property for taxing purposes.

(vii) Encumbrances. Borrower shall have taken or caused to be taken such actions in such a manner so that Lender has a valid and perfected first Lien as of the Closing Date on the Property, subject only to applicable Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents, and Lender shall have received satisfactory evidence thereof.

(c) Delivery of Organizational Documents; Consents. Borrower shall have delivered or caused to be delivered to Lender certified copies of all Organizational Documents related to the Borrower Parties and if any of the Borrower Parties is a partnership or limited liability company, the partners or members thereof, as Lender may request in its sole discretion, including good standing certificates, qualifications to do business in the appropriate jurisdictions,

resolutions authorizing the entering into of the Loan and incumbency certificates as may be requested by Lender. The Lender shall have received copies of all consents, Licenses and approvals, if any, required in connection with the execution, delivery and performance by the Borrower Parties and the validity and enforceability of the Loan Documents and such consents, Licenses and approvals shall be in full force and effect. Lender shall have received a chart depicting the ownership structure of the Borrower, each constituent partner or member of Borrower (including their respective ownership interests, direct or indirect, and capital contributions), which chart shall identify each Person who owns or controls, directly or indirectly, any such partner or member of Borrower.

(d) Opinions of Borrower's Counsel. Lender shall have received opinions of counsel to the Borrower Parties with respect to due execution, authority, enforceability (including no usury) of the Loan Documents and such other matters as Lender may require, all such opinions to be in form, scope and substance satisfactory to Lender and Lender's counsel.

(e) Budgets. Borrower shall have delivered, and Lender shall have approved, the Annual Budget for the remainder of the current Fiscal Year in form and substance satisfactory to Lender in its sole discretion (which shall include a budget for such repairs, replacements and reserves as Lender may require).

(f) Taxes, Insurance Premiums and Other Charges. Borrower shall have paid all Taxes, Insurance Premiums and Other Charges relating to the Property which are due and payable or in arrears, including (i) accrued but unpaid Insurance Premiums, (ii) currently due Taxes (including any in arrears) relating to the Property, and (iii) currently due Other Charges relating to the Property, which amounts may be funded with proceeds of the Loan if such proceeds are sufficient therefor and as set forth in the Certificate of Sources and Uses of Funds.

(g) Payments. All payments, deposits or escrows required to be made or established by the Borrower under this Agreement, and the other Loan Documents on or before the Closing Date shall have been paid and Lender shall have received (i) a settlement statement setting forth the disbursement of the Loan in form and content satisfactory to Lender and (ii) tax and insurance bills for the two calendar years prior to the Closing Date.

(h) Third Party Reports. Lender shall have received a current seismic report, if required by Lender (prepared by a specialist acceptable to Lender), MAI appraisal report (prepared in compliance with FIRREA) (provided that Lender may accept evidence of value other than an MAI appraisal report, as determined by Lender), structural engineering report (identifying, among other things, (i) deferred maintenance for the Property and the cost thereof and (ii) a 10 year schedule of anticipated capital expenditures and the per annum cost thereof) and environmental property condition report (Phase I environmental reports for the Property and, where environmental consultants recommends, Phase II reports and/or further investigation or as Lender otherwise determines are required); each addressed to Lender and in form and substance satisfactory to Lender and dated within six (6) months of the Closing Date, or if approved by Lender, if such third party reports that are not dated within six (6) months of the Closing Date but are otherwise acceptable to Lender, Borrower has delivered a reliance letter to Lender within six (6) months of the Closing Date that is in form and substance satisfactory to Lender. An

appraiser, engineer and environmental specialist, each satisfactory to Lender, shall perform the appraisal and the structural engineering and environmental property condition reports.

(i) Financial Statements. Lender shall have received copies of certified or audited annual Financial Statements (or statements prepared in accordance with procedures agreed upon by Lender) for the Property for the preceding two Fiscal Years, to the extent available from the seller of the Property, prepared in accordance with Acceptable Accounting Principles and otherwise in form and content acceptable to Lender.

(j) Payoff Letters; Assignments. Lender shall have received a true and correct copy of the payoff letters for all of the existing debt encumbering the Property. In addition, for all of the existing debt encumbering the Property which is to be assigned to Lender, if applicable, Lender shall have received the original promissory notes endorsed to the order of Lender, the original mortgages together with an original assignment thereof to Lender in form and substance acceptable to Lender and representations from the lender holding such existing debt as to the outstanding principal balance thereof, no defaults existing thereunder and such other matters as Lender may reasonably require.

(k) Rent Roll. Lender shall have received a rent roll with respect to the Property (with Lease expiration dates) as of the last full month prior to the Closing Date in form and content acceptable to Lender and certified by Borrower as being true, correct, complete and accurate.

(l) Leases, Contracts and Permits; Subordination. Lender shall have received copies of all Leases, permits and contracts related to the Property. Lender shall have received appropriate instruments acceptable to Lender subordinating all of the Leases affecting the Property and any other contractual agreements affecting the Property designated by Lender to the Security Instrument. Lender shall have received an agreement to attorn to Lender satisfactory to Lender from every Tenant under a Lease (either by separate instrument or pursuant to the terms of the Lease, as elected by Lender).

(m) Costs. Borrower shall have paid all of Lender's cost and expenses associated with the making of the Loan with respect to the Property, including all out-of-pocket due diligence expenses, the cost of all third party reports (such as but not limited to environmental, structural, appraisal and/or market study), legal fees and expenses, survey costs, title costs, etc.

(n) Separate Lot. Lender shall have received evidence that the Property (x) is comprised of one (1) or more parcels which constitute a separate tax lot or lots and (y) does not constitute a portion of any other tax lot not a part of the Property.

(o) Utilities/Parking. Lender shall have received evidence that all utility services (including utility letters) and parking required for the Property are available (which evidence may consist of the survey set forth in clause (c)(iv) above for the Property reflecting such utility services and parking).

(p) Standard Form Lease. Borrower shall have delivered to Lender for approval by Lender in Lender's sole discretion, the standard lease form for the Property.

(q) Further Documents. Lender or its counsel shall have received such other and further approvals, opinions, documents and information as Lender or its counsel may have reasonably requested in form and substance satisfactory to Lender and its counsel.

(r) Purchase Contract. Borrower shall have delivered a true and correct copy of the Purchase Agreement to Lender, together with all amendments and modifications thereto and a written certification by Borrower that all closing requirements and conditions under such Purchase Agreement have been satisfied by the seller thereunder and have not been waived.

(s) Mezzanine Loan. Borrower shall have delivered a true and correct copy of all of the Mezzanine Loan Documents.

(t) Equity Contribution. Lender shall have received an Officer's Certificate and other reasonably satisfactory evidence (including invoices, cancelled checks, etc.) of capital contributions by the Principals to Borrower or the direct owner of Borrower in an aggregate amount not less than \$7,500,000 (the "**Equity Contribution**"). No funds loaned to or borrowed by any Borrower Party shall count towards the Equity Contribution.

confidential  
Daniel Hughes

**SCHEDULE III**

**Pending Litigation**

NONE

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**SCHEDULE IV**

**Disclosure Schedule**

Affiliate Agreements:

NONE

Service Contracts (not terminable with thirty (30) days notice):

1. Pest Control Contract for Eaton Canyon MOB: Ecolab Inc.
  - Agreement for Project Services with Ecolab Inc. dated January 25, 2007
  - Terminable upon thirty (30) days notice after January 25, 2008
2. Window Cleaning Contract for Eaton Canyon MOB: Hydroclear Window Cleaning
  - Agreement for Project Services with Hydroclear Window Cleaning dated December 10, 2003

Leases (Rents prepaid more than one (1) month in advance):

1. TMT Observatory Corporation (formerly known as CELT Development Corporation)
  - Office Lease
  - Rent prepaid through end of term of Office Lease.