

**2007 AMENDMENT TO MORTGAGE AND OTHER DOCUMENTS**  
(Restructuring)

THIS AGREEMENT is executed as of the 12th day of June, 2007 (the "Closing Date"), by MASSACHUSETTS HOUSING FINANCE AGENCY, a body politic and corporate constituting a public instrumentality of the Commonwealth of Massachusetts (the "Lender" or the "Agency"), and CCBA WATERFORD PLACE, LLC, a Massachusetts limited liability company (the "Borrower" or the "Owner"), with respect to the property (the "Property" or the "Project") more particularly described in the First Mortgage (hereinafter defined) and with reference to the following facts:

**RECITALS**

A. Concurrently herewith, CCBA Limited Partnership ("CCBALP") is conveying the Property subject to the Loan Documents to the Borrower with the consent of the Lender. The Borrower has assumed, and agreed to timely pay and perform, all of CCBALP's obligations under the Loan Documents.

B. Reference is made to a restructuring agreement between the Borrower and the Lender of even date herewith (the "Restructuring Agreement"). The capitalized terms used in this Agreement, if not otherwise defined herein, shall have the same meaning as in the Restructuring Agreement.

C. The Recitals set forth in the Restructuring Agreement are hereby incorporated in this Agreement.

**AGREEMENTS**

IN CONSIDERATION of the mutual agreements herein contained, the benefits to be received by the Borrower hereunder and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Borrower, the Lender and the Borrower hereby agree as follows:

1. First Mortgage. The Borrower and Lender acknowledge and agree that the First Mortgage referenced on Exhibit A is in full force and effect. The parties acknowledge that the Discharge recorded with Deeds (defined in Exhibit A) in Book 17143, Page 279 was intended to discharge a certain Construction Loan Agreement recorded with Deeds in Book 15732, Page 1 (the "CLA"), and not the First Mortgage. Due to inadvertence, the recording information for the First Mortgage was included in such Discharge, and not the recording information for the CLA. The parties agree that such Discharge shall not impact or effect the First Mortgage which is hereby ratified and confirmed (and revived and reinstated, if applicable) by Borrower and Lender. Concurrently herewith, the Lender shall execute and record a correct discharge of the CLA. The First Mortgage is hereby amended as follows:

A. The term "Mortgage Debt" shall mean, without limitation, all payment obligations of the Borrower to the Lender under (i) a Mortgage Note dated

*NAME AND ADDRESS: 100-192 (ATTORNEY GENERAL, BOSTON, MA)*

SUFFOLK REGISTRY  
OF DEEDS

JUN 19 2007

3:29 PM BK/PG

MARGINAL REFERENCE

BOOK	15731	PAGE	334
	4172429v4		
①	15732		L4
③	15732		D74

*4200/202*

June 30, 1989 in the original principal amount of \$4,608,022 and a Massachusetts Housing Finance Agency Operating Deficit Loan Promissory Note (“ODL TYPE I FY95-FY06”) dated as of December 22, 1995 in the amount of \$912,088, together with any and all Riders and Addenda to such Notes, as such Notes have been amended, restated and consolidated into the 2007 Consolidated Note, (ii) a SHARP Subsidy Repayment Note (the “SHARP Note”) dated June 28, 1989 in a principal amount not to exceed \$210,425 per annum for 15 years (or \$3,156,375 in the aggregate), together with any and all Riders and Addenda to such Note, and (iii) all documents relating to the Loans and the 2007 Loan Document Amendments, as each may be hereinafter amended (collectively, “Contract Documents”).

- B. The term “Contract Documents,” as used in the First Mortgage Loan Documents, is hereby amended to refer to the Contract Documents as defined herein in Paragraph 1A.
- C. Section 1.2 of the First Mortgage entitled “Agency’s Bond Resolution and Certain Agency Expenses” is hereby deleted.
- D. The provision of Section 3 of the First Mortgage are hereby deleted and the following substituted in lieu thereof:

Prior to the 15<sup>th</sup> anniversary of the Closing Date (the “Prepayment Date”), the Borrower may not prepay the principal amount of the 2007 Consolidated Note in advance of the repayment schedule set forth therein. Subsequent to the Prepayment Date, prepayment shall be permitted only upon the prior written consent of the Lender, which consent shall be granted or denied in the Lender’s sole discretion. In no event, however, shall the Borrower at any time prepay the principal in advance of such schedule unless at the time of such payment, the Borrower shall pay an amount equal to the aggregate of (i) the principal amount evidenced by the 2007 Consolidated Note remaining unpaid, together with all accrued interest and other charges; (ii) a prepayment premium equal to four percent (4%) of the outstanding amount of the 2007 Consolidated Note; and (iii) all other unpaid Mortgage Debt.

- E. The following is hereby added as Section 1.5A to the First Mortgage:

Mortgagor shall notify Mortgagee, in writing, in the event any Operating Obligations (as defined below) of the Project are more than sixty (60) days past due. Such notice shall state with specificity the

Operating Obligations that are overdue. As used in this paragraph, Operating Obligations of the Project shall mean the usual and customary expenses of operating a residential housing development including, but not limited to, debt service, taxes, replacement reserve obligations, insurance premiums, utility payments, management fees, and payments to the providers of goods and services to the Project. Upon the issuance of such notice, Mortgagor shall either immediately escrow with Mortgagee the amount of all such Operating Obligations which are more than 60 days past due or immediately pay such obligations so that no Operating Obligation is more than thirty (30) days past due, to the extent of available net operating income.

F. The following is hereby added as Section 1.11 to the First Mortgage:

Mortgagor shall not take any action, nor fail to take any action, which action or inaction would adversely affect the treatment of interest on the Funding Bonds for federal income tax purposes.

G. All notices under the First Mortgage shall be delivered to the addresses and in accordance with the procedures set forth in the Restructuring Agreement.

2. Intentionally Omitted.

3. SHARP Option Agreement. The SHARP Option Agreement referenced on Exhibit A is hereby terminated.

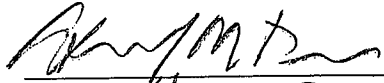
4. Land Use Restriction Agreement. The Land Use Restriction Agreement referenced on Exhibit A is hereby amended to provide that (a) the "Qualified Project Period", as defined in the Land Use Restriction Agreement, shall not terminate prior to the scheduled maturity date of the 2007 Consolidated Note, and the Property shall be subject to the terms of the Land Use Restriction Agreement until the expiration of the Qualified Project Period and (b) the requirement in Section 4 relating to the percentage of affordable units shall be amended as follows: From and after the Restructuring Date, not less than 26 of the units shall be rented at all times to low income persons or families (i.e., households or families that are less than or equal to 50% of area median income as calculated pursuant to regulations promulgated by the United States Department of Housing and Urban Development). The Borrower and the Agency agree that this requirement shall continue until the 30<sup>th</sup> anniversary of the Restructuring Date, unless earlier terminated by the Agency. The Borrower and the Agency further agree that this requirement shall continue for such time period even if the Borrower satisfies the First Mortgage (whether on or prior to maturity), as amended herein, unless earlier terminated by the Agency. If the Borrower does satisfy the First Mortgage, the Borrower agrees to establish, prior to repayment, a protocol acceptable to Lender for oversight of the affordability requirements.


5. Intentionally Omitted.
6. Other Documents. The other First Mortgage Loan Documents shall be modified as set forth in the 2007 Amendment to Loan Documents executed in connection with this Agreement.
7. Loan Documents. All references in any Loan Document to another Loan Document shall be deemed to be a reference to such Loan Document as amended by this Agreement, by the 2007 Amendment to Loan Documents and by the 2007 Consolidated Note, and as affected by the Restructuring Agreement. All references in any Loan Document to the "Lender" or the "Agency" shall be deemed to be a reference to the Massachusetts Housing Finance Agency. The Borrower hereby assumes and agrees to timely pay and perform all of the obligations of CCBALP under the Loan Documents. From and after the Closing Date, all references in the Loan Documents to CCBALP shall mean and refer to the Borrower.
8. Non-Recourse. The Lender agrees that no member (including any officer, director or shareholder of a member, partner of a member which is a partnership or member, manager or officer of a member which is a limited liability company) of the Borrower shall incur any personal liability as a result of executing this Amendment or as a result of any claims made for payment or performance of Borrower's obligations under this Amendment, except as provided to the contrary in the Restructuring Agreement and the 2007 Consolidated Note.
9. Environmental Rider. Exhibit B attached hereto is incorporated into this Agreement.

Except as specifically modified by the 2007 Loan Document Amendments, the Borrower acknowledges that all the terms of the First Mortgage Loan Documents and the obligations of the Borrower thereunder remain in full force and effect and may be enforced against the Borrower in accordance with the terms of the respective First Mortgage Loan Documents.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal effective the date first above written.

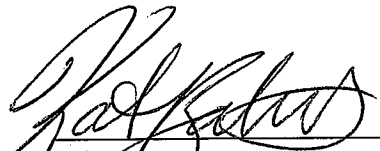
MASSACHUSETTS HOUSING FINANCE AGENCY

  
\_\_\_\_\_  
Witness *Henry M. Bean*

By:   
\_\_\_\_\_  
Laurie Wallach, General Counsel

CCBA WATERFORD PLACE, LLC,  
a Massachusetts limited liability company

By: Waterford Place Management, LLC,  
Manager, a Massachusetts limited liability  
company

  
\_\_\_\_\_  
Witness

By:   
\_\_\_\_\_  
Michael Wong, President

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

June 14, 2007

Before me, the undersigned notary public, personally appeared Laurie Wallach, in her capacity as General Counsel of the Massachusetts Housing Finance Agency, whose name is signed on the preceding document, and such person acknowledged to me that she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness, or  personal knowledge of the undersigned.



Kellee Gill  
Notary Public  
My Commission Expires: 10/22/2010

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

June 12, 2007

Before me, the undersigned notary public, personally appeared Michael Wong, in his capacity as the President of Waterford Place Management, LLC, a Massachusetts limited liability company and the manager of CCBA Waterford Place, LLC, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness, or  personal knowledge of the undersigned.

Elissa B. Skop  
Notary Public  
My Commission Expires: 11/27/09

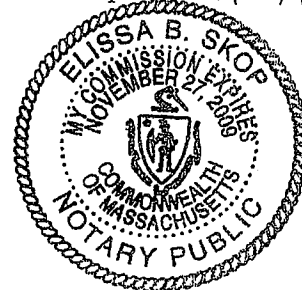


Exhibit A

**Certain Loan Documents**

Mortgage Security Agreement and Assignment of Leases and Rents from CCBALP to Lender dated June 30, 1989 and recorded with the Suffolk County Registry of Deeds ("Deeds") in Book 15731, Page 334 (as same may have been amended, the "First Mortgage").

Massachusetts Housing Finance Agency Land Use Restriction Agreement by and between CCBALP and Lender, dated June 30, 1989 and recorded with Deeds in Book 15732, Page 64 (as same may have been amended, the "Land Use Restriction Agreement").

SHARP Option Agreement between CCBALP and Lender dated June 30, 1989 and recorded with Deeds in Book 15732, Page 074 (as same may have been amended, the "SHARP Option Agreement").

**Exhibit B**

**Environmental Rider**

As used herein:

A. The term "Environmental Legal Requirements" shall mean all applicable past (which have current effect), present or future federal, state, county and local laws, by-laws, rules, regulations, codes and ordinances, or any judicial or administrative interpretations thereof, and the requirements of any governmental agency or authority having or claiming jurisdiction with respect thereto, applicable to the regulation or protection of the environment, the health and safety of persons and property and all other environmental matters, and shall include, but not be limited to, all orders, decrees, judgments and rulings imposed through any public or private enforcement proceedings, relating to Hazardous Materials (as hereinafter defined) or the existence, use, discharge, release, containment, transportation, generation, storage, management or disposal thereof, or otherwise regulating or providing for the protection of the environment applicable to the Property and relating to Hazardous Materials, or to the existence, use, discharge, release or disposal thereof. Environmental Legal Requirements presently include, but are not limited to, the following laws: Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Public Health Service Act (42 U.S.C. 300(f) et seq.), the Pollution Prevention Act (42 U.S.C. 13101 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Federal Clean Water Act (33 U.S.C. 1251 et seq.), the Federal Clean Air Act (42 U.S.C. 7401 et seq.), the Massachusetts Oil and Hazardous Materials Release, Prevention and Response Act, G.L. c.21E et seq.; the Massachusetts Hazardous Waste Management Act, G.L. c.21C et seq.; the Massachusetts Wetlands Protection Act, G.L. c.131, 40 et seq.; the Massachusetts Clean Waters Act, G.L. c.21, 26-53 et seq.; and the Massachusetts Clean Air Act, G.L. c.111, 142 et seq., each as the same may be amended from time to time.

B. The term "Hazardous Materials" shall mean and include asbestos, flammable materials, explosives, radioactive or nuclear substances, polychlorinated biphenyls, other carcinogens, oil and other petroleum products, radon gas, urea formaldehyde, chemicals, gases, solvents, pollutants or contaminants that could be a detriment or pose a danger to the environment or to the health or safety of any person, and any other hazardous or toxic materials, wastes and substances which are defined, determined or identified as such in any Environmental Legal Requirements.

C. The term "Surrounding Property" shall mean any property located within 100 feet of the perimeter of any of the individual parcels that constitute the Property.

D. The term "Indemnified Party" shall mean: (i) Lender; (ii) all those claiming by, through or under Lender, including any subsequent holder of the Loans and any present or future owner of a participation interest therein; (iii) any subsequent owner or tenant of all or any portion of the Property following the exercise by Lender of its rights under the Mortgage or the other Contract



Documents including, but not limited to, a foreclosure sale or deed in lieu thereof; and (iv) as to each of the foregoing, their respective affiliate, parent and subsidiary corporations, and, as applicable, the respective officers, directors, stockholders, agents, employees, accountants and attorneys of any one or more of them, and any person, firm or entity which controls, is controlled by, controlling, or under common control with, any one or more of them. The term "Indemnified Party" shall not include tenants of any residential apartment at the Property.

E. The term "Environmental Enforcement Action" shall mean all actions, orders, requirements or liens instituted, threatened, required, completed, imposed or placed by any governmental authority and all claims made or threatened by any other person against or with respect to the Property or any Surrounding Property, or any present or past owner or occupant thereof, arising out of or in connection with any of the Environmental Legal Requirements, any environmental condition, or the assessment, monitoring, clean-up, containment, remediation or removal of, or damages caused or alleged to be caused by any Hazardous Materials (i) located on or under the Property or any Surrounding Property, (ii) emanating from the Property or any Surrounding Property, or (iii) generated, stored, transported, utilized, disposed, managed, or released by any Borrower (whether or not on, under or from the Property or the Surrounding Property).

F. The terms "generated," "stored," "transported," "utilized," "disposed," "managed," "released" and "threat of release," and all conjugates thereof, shall have the meanings and definitions set forth in the Environmental Legal Requirements.

G The term "Environmental Reports" shall mean the reports identified on Exhibit X which is annexed hereto and made a part hereof.

H. All other capitalized terms used in this Rider which are not otherwise specifically defined herein shall have the same meaning herein as in the Mortgage.

Borrower hereby unconditionally agrees as follows:

1. Compliance with Environmental Legal Requirements.

1.1 Compliance. Until such time as all Obligations of Borrower with respect to the Loans have been paid in full, Borrower guaranties and agrees that Borrower shall comply with all Environmental Legal Requirements applicable to the Property and that Borrower shall take all remedial action necessary to avoid any liability of Borrower, Lender, or any subsequent owner of the Property, and to avoid the imposition of or to discharge any liens on the Property, as a result of any failure to comply with Environmental Legal Requirements applicable to the Property.

1.2 Prohibitions. Without limitation upon the generality of foregoing, Borrower agrees that it shall not:

(a) release or permit any release or threat of release of any Hazardous Materials

in any reportable quantity on any portion of the Property;

- (b) generate or permit any Hazardous Materials to be generated on the Property;
- (c) except in strict compliance with all Environmental Legal Requirements, store, or utilize, or permit any Hazardous Materials to be stored or utilized on the Property;
- (d) dispose of or permit any Hazardous Materials to be disposed of on the Property;
- (e) fail to operate, maintain, repair and use the Property in accordance with Environmental Legal Requirements; or
- (f) allow, permit or suffer any other person or entity to operate, maintain, repair and use the Property except in accordance with all applicable Environmental Legal Requirements.

2. Notice of Conditions. Borrower shall provide Lender with prompt written notice, but in no event later than ten (10) business days after obtaining any actual knowledge or actual notice thereof, of any of the following conditions: (i) the presence or any release or threat of release, of any Hazardous Materials in any reportable quantity on, under or from the Property, or any Surrounding Property, whether or not caused by Borrower; (ii) any Environmental Enforcement Action instituted or threatened; or (iii) any condition or occurrence on the Property, or any Surrounding Property, that may constitute a violation of any of the Environmental Legal Requirements with respect to the Property.

3. Borrower's Agreement to Take Remedial Actions.

3.1 Remedial Actions. Upon Borrower becoming aware of the violation of any Environmental Legal Requirement related to the Property, or the presence, or any release or any threat of release, of any Hazardous Materials on, under, or from the Property or any Surrounding Property, whether or not caused by Borrower, Borrower shall, subject to the rights to contest set forth in Section 6, immediately: (A) take all actions to cure or eliminate any such violation of any such Environmental Legal Requirement and, where applicable, to arrange for the assessment, monitoring, clean-up, containment, removal, remediation, or restoration of the Property, and (B) to the extent that the presence of any Hazardous Materials on the Surrounding Property ("Affected Surrounding Property"), originated on, under, or from the Property, or constitutes a danger to the Property, take all actions as (i) are required pursuant to any Environmental Legal Requirements or by any governmental authority, and (ii) may otherwise be advisable and reasonably requested by Lender consistent with Environmental Legal Requirements, but only to the extent that Borrower has a legal right to do so.

3.2 Security For Costs. If the potential costs associated with the actions required in Section 3.1, the release of any lien against the Property, and the release or other satisfaction of the liability, if any, of Borrower with respect to the Property arising under or related to any of the Environmental Legal Requirements or any Environmental Enforcement Action are determined by Lender, in good faith, to exceed \$50,000, Lender shall have the right to require Borrower to provide, and Borrower shall provide, within thirty (30) days after written request therefor, a bond, letter of credit or other similar financial assurance, in form and substance satisfactory to Lender, in its good faith judgment, evidencing to Lender's reasonable satisfaction that the necessary financial resources will be unconditionally available to pay for all of the foregoing.

3.3 Environmental Assessments. Lender shall have the right to require Borrower, at its own cost and expense, to obtain a professional environmental assessment of the Property in accordance with Lender's then standard environmental assessment requirements and sufficient in scope to comply with the requirements of Section 4 upon the occurrence of any one or more of the following events: (i) an Event of Default; or (ii) upon receipt of any notice of any of the conditions specified in Section 2 of this Rider.

4. Lender's Rights to Inspect the Property and Take Remedial Actions.

4.1 Lender's Rights. So long as any of the Contract Documents shall remain in force and effect, Lender shall have the right, but not the obligation, through such representatives or independent contractors as it may designate, to enter upon the Property and to expend funds to:

4.1.1 Assessments. Cause one or more environmental assessments of the Property to be undertaken, as provided in Section 3.3 above or, if Lender, in its reasonable discretion, determines that it has reasonable grounds that such assessment is appropriate. Such environmental assessments may include, without limitation: (i) detailed visual inspections of the Property, including without limitation all storage areas, storage tanks, drains, dry wells and leaching areas; (ii) the taking of soil and surface and sub-surface water samples; (iii) the performance of soil and ground water analysis; and (iv) the performance of such other investigations or analysis as are necessary or appropriate and consistent with sound professional environmental engineering practice in order for Lender to obtain a complete assessment of the compliance of the Property and the use thereof with all Environmental Legal Requirements and to make a determination as to whether or not there is any risk of contamination (x) to the Property resulting from Hazardous Materials originating on, under, or from any Surrounding Property or (y) to any Surrounding Property resulting from Hazardous Materials originating on, under, or from the Property;

4.1.2 Cure. Cure any breach of the representations, warranties, covenants and

conditions made by or imposed upon Borrower under this Rider including without limitation any violation by Borrower, or by the Property, or by any other occupant, prior occupant or prior owner thereof, of any of the Environmental Legal Requirements applicable to the Property;

4.1.3 Prevention and Precaution. Take all actions as are necessary to: (i) prevent the migration of Hazardous Materials on, under, or from the Property to any other property; (ii) clean-up, contain, remediate or remove any Hazardous Materials on, under, or from any other property which Hazardous Materials originated on, under, or from the Property; or (iii) to the extent Borrower has a legal right to do so, prevent the migration of any Hazardous Materials on, under, or from any other property to the Property;

4.1.4 Environmental Enforcement Actions. Comply with, settle, or otherwise satisfy any Environmental Enforcement Action including, but not limited to, the payment of any funds or penalties imposed by any governmental authority and the payment of all amounts required to remove any lien or threat of lien on or affecting the Property; and

4.1.5 General. Comply with, settle, or otherwise satisfy any Environmental Legal Requirement and correct or abate any environmental condition on, or which threatens the Property and which could cause damage or injury to the Property or the Surrounding Property or to any person.

4.2 Recovery of Costs. Any amounts paid or advanced by Lender and all costs and expenditures incurred in connection with any action taken pursuant to the terms of this Rider, including but not limited to environmental consultants' and experts' fees and expenses, attorneys' fees and expenses, court costs and all costs of assessment, monitoring, clean-up, containment, remediation, removal and restoration, with interest thereon at the Default Rate, as defined in the Mortgage, shall be a demand obligation of Borrower to Lender and, to the extent not prohibited by law, (and so long as the Mortgage remains undischarged of record) shall be added to the obligations secured by the Mortgage when paid by Lender and shall be secured by the lien of the Mortgage and the other security documents as fully and as effectively and with the same priority as every other obligation secured thereby.

4.3 Lender Not Responsible. The exercise by Lender of any one or more of the rights and remedies set forth in this Section 4 shall not operate or be deemed (a) to place upon Lender any responsibility for the operation, control, care, service, management, maintenance or repair of the Property; or (b) make Lender the "owner" or "operator" of the Property or a "responsible party" within the meaning of any of the Environmental Legal Requirements.

4.4 Lender's Subrogation. Furthermore, Lender, by making any such payment or

incurring any such costs, shall be subrogated to all rights of Borrower or any other occupant of the Property to seek reimbursement from any other person including, without limitation, any predecessor, owner or occupant of the Property who may be a "responsible party" under any of the Environmental Legal Requirements in connection with the presence of Hazardous Materials on, under or which emanated from, the Property.

4.5 Lender May Stop. Without limiting the generality of the other provisions of this Rider, any partial exercise by Lender of any one or more of the rights and remedies set forth in this Section 4 including, without limitation, any partial undertaking on the part of Lender to cure any failure by Borrower or of the Property, or any other occupant, prior occupant or prior owner thereof, to comply with any of the Environmental Legal Requirements shall not obligate Lender to complete such actions taken or require Lender to expend further sums to cure such non-compliance.

5. Indemnification. At all times, both before and after the repayment of the Loans, Borrower agrees that it shall at its sole cost and expense indemnify, defend, exonerate, protect and save harmless each Indemnified Party against and from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgment, suits, proceedings, costs, disbursements or expenses of any kind or nature whatsoever, including, without limitation, reasonable attorneys' and experts' fees and disbursements, which may at any time be imposed upon, incurred by or asserted or awarded against any Indemnified Party and arising from or out of:

5.1 Hazardous Materials. Any Hazardous Materials on, in, under or affecting, all or any portion of the Property or any Affected Surrounding Property on or before the date hereof, or which may hereafter affect all or any portion of the Property or any Affected Surrounding Property, whenever discovered;

5.2 Environmental Legal Requirements. The violation of any Environmental Legal Requirement by Borrower with respect to the Property or any Affected Surrounding Property, existing on or before the date hereof or which may so exist in the future, whenever discovered;

5.3 Breach of Warranty, Representation or Covenant. Any breach of warranty, representation or covenant made by Borrower under or pursuant to this Rider; and

5.4 General. The enforcement of this Rider or the assertion by Borrower of any defense to the obligations of Borrower hereunder, whether any of such matters arise before or after foreclosure of the Mortgage or other taking of title to or possession of all or any portion of the Property by Lender or any other Indemnified Party, and specifically including therein, without limitation, the following: (i) costs incurred for any of the matters set forth in Section 4 of this Rider; and (ii) costs and expenses incurred in ascertaining the existence or extent of any asserted violation of any Environmental Legal Requirements relating to the Property and any remedial action

taken on account thereof including, without limitation, the costs, fees and expenses of engineers, geologists, chemists, other scientists, attorneys, surveyors, and other professionals, or testing and analyses performed in connection therewith.

6. Right to Contest. Borrower may contest in good faith any claim, demand, levy or assessment under any Environmental Legal Requirements, including, but not limited to, any claim with respect to Hazardous Materials, by any person or entity if:

6.1 Material Question in Good Faith. The contest is based upon a material question of law or fact raised by Borrower in good faith;

6.2 Diligent Pursuit. Borrower properly commences and thereafter diligently pursues the contest;

6.3 No Impairment. The contest will not materially impair the taking of any required remedial action with respect to such claim, demand, levy or assessment;

6.4 Adequate Resources. Borrower demonstrates to Lender's reasonable satisfaction that Borrower has the financial capability to undertake and pay for such contest and any remedial action then or thereafter necessary;

6.5 Resolve by Maturity. There is no reason to believe that the contest will not be resolved prior to the maturity of the Loans; and

6.6 No Event of Default. No Event of Default exists under the Contract Documents.

7. Warranties and Representations. Borrower represents and warrants to Lender, the same to be true as of the date hereof and throughout the period that any of the Contract Documents shall remain in force and effect, that except as otherwise disclosed in the Environmental Reports:

7.1 No Hazardous Materials at Property. No Hazardous Materials in reportable quantities have been or are currently generated, stored (other than Hazardous Materials used by the Borrower in the ordinary course of its business in compliance with all applicable Environmental Legal Requirements), transported, utilized (other than Hazardous Materials used by the Borrower in the ordinary course of its business in compliance with all applicable Environmental Legal Requirements), disposed of, managed, released or located on, under or from the Property, whether or not in reportable quantities, or in any manner introduced onto the Property including without limitation any septic, sewage or other waste disposal systems servicing the Property;

7.2 No Violations Claimed Re: Property or Borrower. Borrower has received no notice from the Department of Environmental Protection of The Commonwealth of

Massachusetts, the United States Environmental Protection Agency or any other governmental authority claiming that: (i) the Property or any use thereof violates any of the Environmental Legal Requirements; or (ii) Borrower or any of its respective employees or agents have violated any of the Environmental Legal Requirements with respect to the Property or any Surrounding Property;

7.3 No Liability to Governmental Authorities Borrower has not incurred any liability to The Commonwealth of Massachusetts or the municipality where the Property is located, the United States of America or any other governmental authority under any of the Environmental Legal Requirements;

7.4 No Lien on Property. No lien against the Property has arisen under or is related to any of the Environmental Legal Requirements;

7.5 No Enforcement Actions. There are no Environmental Enforcement Actions pending, or, to the best of the Borrower's information, knowledge and belief, threatened;

7.6 No Knowledge of Hazardous Materials at Surrounding Property. Borrower has no knowledge (without independent inquiry other than obtaining and reviewing the Environmental Reports) that any Hazardous Materials have been or are currently generated, stored, transported, utilized, disposed of, managed, released or located on, under or from the Surrounding Property in violation of or allegedly in violation of any of the Environmental Legal Requirements;

7.7 No Knowledge of Violations Re: Surrounding Property. Borrower has no knowledge (without independent inquiry other than obtaining and reviewing the Environmental Reports) of any action or order instituted or threatened by any person or governmental authority arising out of or in connection with the Environmental Legal Requirements involving the assessment, monitoring, cleanup, containment, remediation or removal of or damages caused or alleged to be caused by any Hazardous Materials generated, stored, transported, utilized, disposed of, managed, released or located on, under or from any Surrounding Property;

7.8 No Underground Storage Tanks. There are no underground storage tanks on or under the Property;

7.9 No Dangerous Conditions. No environmental condition exists on the Property which could cause any damage or injury to the Property, any Surrounding Property or to any person;

7.10 No Violations. The performance of the obligations evidenced hereby will not constitute a violation of any law, order, regulation, contract, organizational document or agreement to which the Borrower is a party or by which its property is or may be

bound; and

7.11 No Litigation. There is no material litigation or administrative proceeding now pending or threatened against Borrower which if adversely decided could materially impair the ability of Borrower to pay or perform its respective obligations hereunder.

8. Survival. The provisions of this Rider shall continue in effect and shall survive (among other events) any payment and satisfaction of the Loans and the Obligations, any termination or discharge of the Mortgage, foreclosure, a deed-in-lieu transaction, or release of any collateral.

9. Right of Borrower to Terminate Obligations. Borrower shall have the right to terminate its continuing liability hereunder upon fulfillment of each of the following conditions to the reasonable satisfaction of Lender:

(i) Lender shall have received Non-Contestable Payment (as defined herein) in full of all Obligations, including but not limited to repayment in full of the Loans, but excluding any Obligations which might arise in the future under the provisions of this Rider. The term "Non-Contestable" shall mean the receipt of payment of the Loans or other satisfaction of the Obligations and the expiration of all periods of time within which a claim for the recovery of a preferential payment, or fraudulent conveyance, or fraudulent transfer, in respect of payments received by Lender as to the Obligations, as defined in the Mortgage, could be filed or asserted with: (A) no such claim having been filed or asserted; or (B) if so filed or asserted, the final, non-appealable decision of court of competent jurisdiction denying the claim or assertion.

(ii) Borrower shall have delivered to Lender a report complying with the provisions of Sections 3 and 4 hereof and such report does not disclose the existence of any violation of Environmental Legal Requirements applicable to the Property, or the lawful assertion by any governmental agency or third party of any violation which has not been cured of any Environmental Legal Requirements, on or with respect to the Property, which report shall be dated, or last updated, to a date which is not earlier than the date on which the Mortgage was discharged or released of record.

(iii) No Environmental Enforcement Action shall be pending or threatened in writing with respect to the Property.

(iv) The Loans have been repaid without Lender or any affiliate thereof ever having taken actual possession of any of the Property, or constructive possession, through either: (A) the appointment of a receiver; or (B) any other exercise of Lender's rights and remedies following an Event of Default under any of the Contract Documents.



(v) No change shall have occurred in applicable Environmental Legal Requirements or in any official interpretation thereof (including governmental, judicial or administrative) which could result in any Indemnified Party being held responsible for causing the Property to fail to be in compliance with Environmental Legal Requirements.

(vi) At least thirteen (13) months have passed since the date the principal, interest and fees due Lender in respect of the Loans was paid (without regard to the passage of time required to establish Non-Contestable Payment) and no claim has been asserted for which any indemnification is provided for in this Rider.

Such termination of Borrower's liability hereunder shall become effective only upon the delivery by Lender to Borrower of a specific written acknowledgment of the satisfaction of the foregoing conditions and the termination of such obligations, which Lender agrees to provide unless Lender makes the good faith determination that the conditions to such termination have not been satisfied.

10. Qualifications and Limitations. Notwithstanding anything to the contrary contained in this Environmental Rider:

10.1 Borrower's obligation to cure or eliminate any violation of Environmental Legal Requirements under clause (A) of Section 3.1 shall be limited to violations of Environmental Legal Requirements at the Property;

10.2 Borrower shall have no obligation to take actions pursuant to clause (B) of Section 3.1 with respect to any Affected Surrounding Property which did not originate on, under or from the Property unless (a) the presence of Hazardous Materials on the Surrounding Property constitutes an imminent danger to the Property and (b) such action is commercially reasonable given the location and severity of the condition, the potential responsibility of other parties to remediate such condition under applicable law (including Environmental Legal Requirements) and the Borrower's legal standing to take action at the Affected Surrounding Property;

10.3 Borrower shall have no obligation to post security with Lender under Section 3.2 for potential costs associated with any Environmental Enforcement Action which does not directly relate to conditions at (a) the Property or (b) any Affected Surrounding Property which originated on, under or from the Property;

10.4 Borrower shall have no obligation for costs incurred by Lender to remediate any condition, or to comply with, settle or otherwise satisfy any Environmental Enforcement Action or Environmental Legal Requirement, which does not directly relate to conditions at the Property unless the Borrower would be obligated to take action pursuant to clause (B) of Section 3.1 as affected by Section 10.2; and

10.5 Borrower shall have no obligation to indemnify the Lender under Section 5 for conditions which are not located at the Property unless the Borrower would be obligated to take action with respect to such conditions pursuant to clause (B) of Section 3.1 as affected by Section 10.2.

**EXHIBIT X**  
**TO EXHIBIT B**  
**Environmental Reports**

None