B 10 (Official Form 10) (12/08)

UNITED STATES BANKRUPTCY COURT Northern District of Texas

PROOF OF CLAIM

Name of Debtor:
Opus West Corporation

Case Number:
09-34356-hdh11

NOTE: *This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.*

Name of Creditor (the person or other entity to whom the debtor owes money or property):
Bank of America, N.A.

☐ Check this box to indicate that this claim amends a previously filed claim.

Court Claim Number:__________
(If known)

Filed on:__________

Name and address where notices should be sent:
Thompson & Knight LLP
c/o John S. Brannon
1722 Routh St., Suite 1500
Dallas, Texas 75201
Telephone number:
(214) 969-1700

Bank of America, N.A.
c/o Casey Carpenter
Vice-President, Real Estate Special Assets
333 S. Hope St., 11th Floor
Los Angeles, California 90071-1406

Name and address where payment should be sent (if different from above):
Bank of America, N.A.
c/o Casey Carpenter
Vice-President, Real Estate Special Assets
333 S. Hope St., 11th Floor
Los Angeles, California 90071-1406
Telephone number:
(213) 621-3604

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: $ 43,384,921.86

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. Basis for Claim: *See Addendum
(See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: __________

3a. Debtor may have scheduled account as: __________
(See instruction #3a on reverse side.)

4. **Secured Claim** (See instruction #4 on reverse side.)
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other
Describe:

Value of Property:$__________ **Annual Interest Rate**___%

Amount of arrearage and other charges as of time case filed included in secured claim,

if any: $__________ **Basis for perfection:** __________

Amount of Secured Claim: $*See Addendum **Amount Unsecured:** $ *See Addendum

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim.

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

☐ Wages, salaries, or commissions (up to $10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).

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

☐ Up to $2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).

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

☐ Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(__).

Amount entitled to priority:

$__________

**Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (*See instruction 7 and definition of "redacted" on reverse side.*)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

Date:
11/09/2009

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Dean M Lyons
DEAN M. LYONS
AUTHORIZED AGENT

FOR COURT USE ONLY
OPUS WEST
00614

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Broadstone Galleria

RECEIVED
NOV 09 2009
BMC GROUP

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	**Chapter 11**
	§	
OPUS WEST CORPORATION,	§	**Case No. 09-34356-hdh11**
	§	
DEBTOR.	§	

EXHIBIT A – ADDENDUM TO PROOF OF CLAIM (BROADSTONE GALLERIA) OF BANK OF AMERICA, N.A.

1. This proof of claim is made by Bank of America, N.A. ("Bank of America").

2. On June 30, 2006, Broadstone Galleria, LP ("Broadstone Galleria"), as Borrower, entered into that certain Construction Loan Agreement with LaSalle Bank National Association ("LaSalle"), as Lender, (as amended, the "Loan Agreement"). Pursuant to the Loan Agreement and for valuable consideration, LaSalle agreed to make a loan to Broadstone Galleria in the principal amount of Forty-Five Million Eight Hundred Fifty Thousand and No/100 Dollars ($45,850,000.00) (the "Loan"). The purpose of the Loan was to provide financing for the development and construction of improvements on the Property (as defined herein).

3. Bank of America is the successor in interest by merger to LaSalle.

4. The Loan is secured by perfected mortgages, security interests, and liens in and to the Property (as defined below) as described and granted in the Loan Agreement and in the following additional documents (the following described documents, together with any and all other or additional agreements, instruments, or other documents evidencing, securing, or otherwise relating to the Loans are hereinafter referred to collectively as the "Loan Documents"):

a. An original note in the amount of $6,375,000.00 (the "Original Note") was secured by, among other things, (i) a Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated December 14, 2005, executed by Borrower in favor of William D. Cleveland, as Trustee, in favor of LaSalle, as Lender, recorded as Instrument No. 2005-03628173 in the Official Public Records of Dallas County, Texas (the "Official Records") (as amended, the "Deed of Trust"), and (ii) an Assignment of Rents and Leases dated as of December 14, 2005, executed by Borrower in favor of Lender, recorded as Instrument No. 2005-03628174 in the Official Records (as amended, the "Assignment Agreement"). The Deed of Trust and the Assignment Agreement encumber, among other things, certain real property located in Dallas County, Texas, as more particularly described therein (the "Property"). The Deed of Trust and the Assignment Agreement, inclusive of all assignment and security provisions contained therein, give Bank of America, as successor in interest, a security interest in the Property, improvements, land, proceeds, leases, rents, and all other interests (as more fully described therein) derived from and related to the Property (collectively, the "Collateral"). The Original Note was amended by that certain Amended and Restated Promissory Note dated as of June 30, 2006, in the principal amount of $45,850,000.00 (as amended, the "Amended Note").

b. On June 30, 2006, LaSalle and Broadstone Galleria entered into that certain Modification of Loan Documents that modified certain provisions of the Deed of Trust (as defined herein) and the Assignment Agreement (as defined herein) and was recorded as Instrument No. 200600243612 in the Official Records (the "Modification Agreement").

c. On March 21, 2008, Bank of America, Broadstone Galleria and certain other parties entered into a letter agreement that amended certain provisions of the Loan Agreement (the "Letter Modification Agreement").

d. A form UCC-1 financing statement was filed in the Official Records on December 15, 2005, as Filing No. 200503628175 naming Broadstone Galleria as debtor (the "Financing Statement"). The Financing Statement further perfected the security interests of Bank of America, as successor in interest, in the Collateral.

5. Opus West Corporation, a Minnesota corporation, executed a Guaranty of Payment on December 14, 2005, wherein Opus West Corporation irrevocably and unconditionally guaranteed the obligations of Broadstone Galleria to LaSalle. Opus West Corporation executed a second Guaranty of Payment on June 30, 2006, wherein Opus West Corporation irrevocably and unconditionally guaranteed the obligations of Broadstone Galleria to LaSalle under the Loan.

6. Prior to the July 6, 2009 petition date of Opus West Corporation (the "Petition Date"), Broadstone Galleria defaulted under the terms of the Loan Documents. As a result of the events of default, Bank of America sent Broadstone Galleria default letters dated April 6 & 9, May 5, June 16, and July 1, 2009, notifying it of the various events of default that had occurred and demanding that Broadstone Galleria pay all past-due amounts in accordance with the terms of the Loan Documents. Broadstone Galleria failed to cure the defaults under the Loan, and the Loan fully matured prior to the Petition Date.

7. As of the Petition Date, the following liquidated, uncontested, and non-contingent amount was and is due and owing to Bank of America under the Loan Documents in an amount not less than **$43,384,921.86** (the "Liquidated Claim Amount"), which consists of:

Principal	$42,822,559.68
Interest	$522,107.59
Pre-Petition Costs Appraisal costs Attorney's Fees 	 $7,300 $32,954.59 $40,254.59
TOTAL:	**$43,384,921.86**

8. Additionally, the following are due to Bank of America under the Loan Documents:

a. Post-Petition Interest. The amount of interest accruing on the outstanding principal amount of the Loan from the Petition Date to the date of payment of the Loan, at the rates and in the manner set forth in the applicable Loan Documents;

b. Other Post-Petition Interest. The amount of interest accruing from the Petition Date on past-due installments of interest on the Loan to the date of payment of such installments, which accrues at the rates and in the applicable Loan Documents; and

c. Other Post-Petition Indebtedness, Charges, Costs. All other interest, charges, penalties, premiums, advances, and other sums that may be due or become due as more fully detailed in or made reference to in any or all of the Loan Documents attached hereto, including, without limitation, reasonable compensation, expenses, disbursements and advances (including, without limitation, reasonable fees and disbursement of counsel and other professionals) of Bank of America.

9. As the amount of the claims asserted in paragraph 8 hereof cannot, at this time, be reasonably calculated or estimated, the total amount of all claims set forth in this proof of claim currently (the "Final Claim Amount") is unliquidated, but is in no event less than the Liquidated Claim Amount of **$43,384,921.86**. The Final Claim Amount of Bank of America may be in a greater amount than stated herein. Bank of America does not waive any of its rights to recover all of the foregoing amounts by not asserting a specific dollar amount at this time.[1]

10. Bank of America reserves the right to amend and/or supplement this proof of claim and to assert any and all other claims of whatever kind or nature that it has, or it may have, against Opus West Corporation that may come to the attention of Bank of America or arise after the filing of this proof of claim. The filing of this proof of claim shall not be deemed a waiver of any such claims or amounts.

11. All notices concerning this proof of claim should be sent to:

THOMPSON & KNIGHT LLP
c/o John S. Brannon
1722 Routh Street, Suite 1500
Dallas, Texas 75201

BANK OF AMERICA, N.A.
c/o Casey Carpenter
Vice President
Real Estate Special Assets
333 S. Hope St., 11th Floor
Los Angeles, CA 90071-1406

[1] Bank of America reserves the right to assert a secured claim to the extent that any prepetition transfer of Collateral is set aside for any reason.

Date: November 9, 2009

Respectfully submitted,

/s/ Katharine B. Richter
David M. Bennett
State Bar No. 2139600
John S. Brannon
State Bar No. 02895500

THOMPSON & KNIGHT LLP
1722 Routh Street, Suite 1500
Dallas, Texas 75201
Telephone: 214/969-1700
Facsimile: 214/969-1751
E-mail: david.bennett@tklaw.com
E-mail: john.brannon@tklaw.com

Katharine Battaia Richter
Texas Bar No. 24046712
THOMPSON & KNIGHT LLP
98 San Jacinto Boulevard, Suite 1900
Austin, Texas 78701
Telephone: 512/469-6100
Facsimile: 512/482-5076
E-mail: katie.richter@tklaw.com

ATTORNEYS FOR BANK OF AMERICA, N.A.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	**Chapter 11**
	§	
OPUS WEST CORPORATION,	§	**Case No. 09-34356-hdh11**
	§	
DEBTOR.	§	

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EXHIBIT A – ADDENDUM TO PROOF OF CLAIM (BROADSTONE GALLERIA) OF BANK OF AMERICA, N.A.

ATTACHMENT 1: Construction Loan Agreement dated June 30, 2006 by and between Broadstone Galleria, LP and LaSalle Bank National Association in the principal amount of $45,850,000.00.

ATTACHMENT 2: Original Promissory Note in the amount of $6,375,000.00.

ATTACHMENT 3: Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated December 14, 2005, recorded as Instrument No. 2005-03628173 in the Official Public Records of Dallas County, Texas.

ATTACHMENT 4: Assignment of Rents and Leases dated December 14, 2005, recorded as Instrument No. 2005-03628174 in the Official Records (as amended, the "Assignment Agreement").

ATTACHMENT 5: Amended and Restated Promissory Note dated as of June 30, 2006, in the principal amount of $45,850,000.00 (as amended, the "Amended Note").

ATTACHMENT 6: Modification of Loan Documents dated June 30, 2006 between LaSalle and Broadstone Galleria recorded as Instrument No. 200600243612 in the Real Property Records of Dallas County, Texas ("Modification Agreement").

ATTACHMENT 7: Letter Modification Agreement dated March 21, 2008 by and among Bank of America, Broadstone Galleria, and certain other parties ("Letter Modification Agreement").

ATTACHMENT 8: UCC-1 Financing Statement was filed in the Official Records of Dallas County on December 15, 2005, as Filing No. 200503628175.

ATTACHMENT 9: Guaranty of Payment on December 14, 2005.

ATTACHMENT 10: Default Notices dated April 6, April 9, May 5, June 16 and July 1, 2009.

ATTACHMENT 1

CONSTRUCTION LOAN AGREEMENT

dated June 30, 2006

by and between

BROADSTONE GALLERIA, L.P.,
a Delaware limited partnership, as Borrower

and

LASALLE BANK NATIONAL ASSOCIATION,
a national banking association, as Lender

Farmers Branch, Texas

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CONSTRUCTION LOAN AGREEMENT

THIS CONSTRUCTION LOAN AGREEMENT ("Agreement"), is made and entered into as of June 30, 2006, by and between **BROADSTONE GALLERIA, L.P.**, a Delaware limited partnership ("Borrower") and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Lender").

RECITALS:

A. Borrower previously executed that certain Promissory Note dated as of December 14, 2005, in favor of Lender in the stated principal amount of up to $6,375,000.000 (the "Original Note"). Borrower and Lender also executed that certain Holdback Agreement of even date with the Original Note (the "Holdback Agreement").

B. The Original Note is secured by, among other things, (i) a Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated December 14, 2005, executed by Borrower in favor of William D. Cleveland, as Trustee, recorded as Instrument No. 2005-03628173 in the Real Property Records of Dallas County, Texas (the "Original Deed of Trust"), covering the property described in **Exhibit A** attached hereto ("Land") and (ii) an Assignment of Rents and Leases dated as of December 14, 2005, executed by Borrower in favor of Lender, recorded as Instrument No. 2005-03628174 in the Real Property Records of Dallas County, Texas (the "Original Assignment").

C. In connection with the making of the loan evidenced by the Original Note, Opus West (as herein defined) executed that certain Guaranty of Payment dated as of December 14, 2005 (the "Original Opus West Guaranty") and Opus West and Borrower executed that certain Environmental Indemnity Agreement dated as of December 14, 2005 (the "Original Environmental Indemnity"), each in favor of Lender.

D. Borrower has requested that Lender agree to modify the Original Note to make additional funds available to Borrower (the "Additional Loan Funds") to finance the construction on the Land of the Improvements and Offsite Improvements (as such terms are defined below). Borrower's obligations in respect of the Original Loan and the Additional Loan Funds shall be evidenced by, among other things, (i) an Amended and Restated Promissory Note (the "Amended and Restated Note"), dated as of even date herewith, from Borrower to Lender, in the stated principal amount of $45,850,000.00, which Amended and Restated Note will amend and restate the Original Note in its entirety (the Amended and Restated Note, as the same may hereafter be renewed, extended, supplemented, increased or modified from time to time, and any other notes given in substitution therefore, or in modification, renewal, or extension thereof, in whole or in part, are herein called, collectively, whether one or more, the "Note"), and (ii) this Agreement. This Agreement amends and restates the Holdback Agreement in its entirety.

E. Pursuant to the terms of that certain Modification of Loan Documents of even date herewith by and among Lender, Borrower and Opus West (the "First Modification Agreement), the parties agreed, among other things, to modify the Original Deed of Trust to secure the Additional Funds and Borrower's obligations reimburse Lender all amounts due under the Loan Documents (as hereinafter defined).

F. Borrower proposes to construct on the Land a 4-story mixed use, multifamily development with 333 luxury apartments, 40,100 square feet of retail space and a parking garage containing 697 parking spaces (collectively, "Improvements") and any and all improvements not on the Land which are required to be in place to make use of the Improvements ("Offsite Improvements"; the Improvements and the Offsite Improvements are collectively referred to herein as the "Project"). Borrower has applied to Lender for the Loan (as hereinafter defined) for the purpose constructing the Project, and Lender is willing to make the Additional Loan Funds available to Borrower upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements herein contained, the sufficiency of which is hereby acknowledged, the parties hereto represent and agree as follows:

ARTICLE 1

INCORPORATION AND DEFINITIONS

1.1 **Incorporation and Definitions**. The foregoing recitals and all exhibits hereto are hereby made a part of this Agreement. The following terms shall have the following meanings in this Agreement:

Additional Loan Funds: As defined in the Recitals to this Agreement.

Adjusted Tangible Net Worth: The sum of all items which, in accordance with GAAP, would be included as tangible assets plus Subordinated Affiliate Debt, less Indebtedness and all items which, in accordance with GAAP, would be included as minority interests.

Affiliate: Any entity which, directly or indirectly, controls or is controlled by or is under common control with Borrower, Opus West or Alliance, as applicable.

Affiliate Debt. All non-contingent liabilities owed by Opus West to Affiliates of Opus West.

Alliance: Alliance Residential Holdings, LLC, an Arizona limited liability company.

Alliance Deferred Contractor Fee: The general contractor fee in the amount of $1,478,000.00 due Alliance or any Affiliate of Alliance which shall not be paid until such time as the Loan and all amounts due Lender under any of the Loan Documents are paid in full.

Alliance Deferred Development Fee: The development fee in the amount of $929,300.00 due Alliance or any Affiliate of Alliance which shall not be paid until such time as the Loan and all amounts due Lender under any of the Loan Documents are paid in full.

Alliance Guaranty: As defined in Section 4 of this Agreement.

Architect: James, Harwick + Partners, a Texas corporation.

Architect's Contract: The contract between the Borrower and Architect dated November 1, 2005, for preparation of the Plans and Specifications.

Assignment: The Original Assignment, as modified by the First Modification.

Borrower: Broadstone Galleria, L.P., a Delaware limited partnership.

Completion Date: October 1, 2008.

Construction Commencement Date: Within 30 days after the Loan Opening Date.

Construction Contracts: The Contract and the Subcontracts.

Construction Disbursement: A disbursement of Loan Proceeds for construction of the Project.

Contract: The general contract or construction management contract for construction of the Project dated ___________, made by Borrower and the Contractor.

Contractor: Alliance Residential Builders, L.P., a Delaware limited partnership, d/b/a Alliance Communities Residential Builders, L.P.

Deed of Trust: The Original Deed of Trust, as modified by the First Modification..

Default Rate: As defined in the Note.

Deferred Development Fees. Collectively, the Alliance Deferred Development Fee, the Alliance Deferred Contractor Fee, the Opus Deferred Management Fee and the Opus Deferred Development Fee.

Engineer: Pacheco Koch Consulting Engineers, Inc.

Engineer's Contract: That certain contract dated November 1, 2005, by and between Engineer and Borrower.

Environmental Laws: As defined in the Environmental Indemnity Agreement of even date herewith from Borrower and Opus West in favor of Lender.

Equity Requirements: Four Million Two Hundred Thirty-Five Thousand Six Hundred and No/100 Dollars ($4,235,600.00).

Extended Maturity Date. June 30, 2010.

Event of Default: One or more of the events or occurrences referred to in Article 11 of this Agreement.

Final Disbursement: As defined in Section 6.13 hereof.

First Modification Agreement: As defined in the Recitals.

Foundation Work: As defined in Section 6.5 hereof.

GAAP: Generally accepted accounting principles, consistently applied.

Guarantors: Together, Opus West and Alliance.

Hazardous Materials: As defined in the Environmental Indemnity Agreement of even date herewith from Borrower and Opus West in favor of Lender.

Improvements: As defined in the Recitals to this Agreement.

Indebtedness: All items, which in accordance with GAAP, would be included as liabilities on the consolidated balance sheet of Opus West other than Subordinated Affiliate Debt.

Interest Rate: The applicable rate of interest set forth in the Note.

Interest Reserve: As defined in the Note.

Land: That certain parcel or parcels of real estate legally described in **Exhibit A** to this Agreement, together with all improvements presently located thereon and all easements and other rights appurtenant thereto.

Lease(s): Any and all leases, licenses or agreements for use of any part of the Premises.

Lender: LaSalle Bank National Association, a national banking association.

Lender's Consultant: AECC, Inc., or such other person or entity that Lender may, from time to time, select.

Leverage Ratio: The ratio of Indebtedness to Adjusted Tangible Net Worth.

Loan: The Original Loan and the Additional Loan Funds to be made pursuant to this Agreement.

Loan Amount: Forty Five Million Eight Hundred Fifty Thousand and No/100 Dollars ($45,850,000.00).

Loan Documents: This Agreement, the Assignment, the Deed of Trust, the Environmental Indemnity, the First Modification, the other documents specified in Article 4 hereof and any other instruments evidencing, securing or guarantying obligations of any party under the Loan.

Loan Expenses: As defined in Section 6.2(d) hereof.

Loan Opening: The first disbursement of the Loan.

Loan Opening Date: June 30, 2006.

Loan Proceeds: All amounts advanced as part of the Loan, whether advanced directly to Borrower or otherwise.

Maturity Date: June 30, 2009, as may be extended to the Extended Maturity Date pursuant to the terms of the Note.

Note: As defined in the Recitals.

Offsite Improvements: As defined in the Recitals to this Agreement.

Opus Deferred Development Fee: The development fee in the amount of $929,300.00 due Borrower or any Affiliate of Borrower which shall not be paid until such time as the Loan and all amounts due Lender under any of the Loan Documents are paid in full.

Opus Deferred Management Fee: The construction management fee in the amount of $591,200.00 due Borrower or any Affiliate of Borrower which shall not be paid until such time as the Loan and all amounts due Lender under any of the Loan Documents are paid in full.

Opus West: Opus West Corporation, a Minnesota corporation.

Opus West Guaranty: As defined in Section 4(e).

Outstanding Bank Debt: (Without duplication) the aggregate of all of Opus West's indebtedness, obligations and other liabilities to banks and other financial institutions less Subordinated Affiliated Debt for or with respect to (A) borrowed money, (B) reimbursement obligations with respect to letters of credit or similar instruments for which have been drawn and (C) all other items which, in accordance with GAAP, would be included as liabilities on the consolidated balance sheet of Opus West.

Outstanding Bank Debt Ratio: The ratio of Outstanding Bank Debt to Adjusted Tangible Net Worth.

Permitted Exceptions: The title exceptions specified in **Exhibit B** hereto.

Plans and Specifications: Detailed plans and specifications and/or project manual for the construction of the Project, which are prepared in accordance with the terms of the Architect's Contract and approved by Lender and Lender's Consultant, including any shop or field drawings made in furtherance thereof, together with any changes made therein which are permitted under the terms of this Agreement.

Premises: The Land and the Project.

Project: As defined in the Recitals to this Agreement.

Project Budget: The Project Budget attached to this Agreement as **Exhibit C**, or such budget subsequently approved in writing by Borrower and Lender.

Project Costs: The costs of the Project as set forth in the Project Budget.

Remaining Subcontracts: Those Subcontracts which will not have been executed as of the Loan Opening Date, which are for work and materials not to exceed $500,000.

Request for Advance: As defined in Section 6.3 of this Agreement.

Reserves: As defined in Article 7 of this Agreement.

State: The state in which the Premises is located.

Subcontract: Any contract and/or purchase order between any Contractor or Subcontractor and any Subcontractor for the construction or equipping of the Project or for the furnishing of labor or materials for all or any portion of the Project.

Subcontractor: Any person or entity having a contract with any Contractor or any Subcontractor for the construction, equipping or supplying by such Subcontractor of any portion of the Project.

Subordinated Affiliate Debt: All non-contingent liabilities owed by Opus West to one or more Affiliates of Opus West which are junior and subordinate to the liabilities of Opus West and Borrower to Lender.

Title Insurance Company: Chicago Title Insurance Company.

Title Insurance Policy: As defined in Section 5.1 of this Agreement.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

2.1 **Representations and Warranties**. To induce Lender to execute and perform this Agreement, Borrower hereby represents, covenants and warrants to Lender as follows:

(a) At the Loan Opening and at all times thereafter until the Loan is paid in full, Borrower will have good and indefeasible fee simple title to the Land, subject only to the Permitted Exceptions;

(b) Borrower is a limited partnership, duly organized, validly existing and in good standing under the laws of the State of Delaware and is qualified to conduct business in the State of Texas. Borrower has full power and authority to conduct its business as presently conducted, to develop the Project, to enter into this Agreement and to perform all of its duties and obligations under this Agreement and under the Loan Documents; such execution and performance have been duly authorized by all necessary corporate, shareholder or partnership approval. Neither Borrower nor any Guarantor has been convicted of a felony and there are no proceedings or investigations being conducted involving criminal activities of either Borrower or any Guarantor;

(c) This Agreement, the Note, the Deed of Trust, the other Loan Documents and any other documents and instruments required to be executed and delivered by Borrower and/or any Guarantor in connection with this Loan, when executed and delivered, will constitute the duly authorized, valid and legally binding obligations of the party required to execute the same and will be enforceable strictly in accordance with their respective terms (except to the extent that enforceability may be affected or limited by applicable bankruptcy, insolvency and other similar debtor relief laws affecting the enforcement of creditors' rights generally); to Borrower's knowledge, no basis presently exists for any claim against Lender under this Agreement, under the Loan Documents or with respect to the Loan; enforcement of this Agreement and the Loan Documents is subject to no defenses of any kind;

(d) The execution, delivery and performance of this Agreement, the Note, the Deed of Trust, the other Loan Documents and any other documents or instruments to be executed and delivered by Borrower or any Guarantor pursuant to this Agreement or in connection with this Loan and the construction, occupancy and use of the Project will not: (i) violate any provisions of law or any applicable regulation, order, writ, injunction or decree of any court or governmental authority, or (ii) conflict with, be inconsistent with, or result in any breach or default of any of the terms, covenants, conditions or provisions of any indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind to which Borrower or any Guarantor is a party or by which any of them may be bound. Neither Borrower nor any Guarantor is in default (without regard to grace or cure periods) under any contract or agreement to which it is a party, the effect of which default will materially adversely affect the performance by Borrower or any Guarantor of its obligations pursuant to and as contemplated by the terms and provisions of this Agreement;

(e) No condition, circumstance, event, agreement, document, instrument, restriction, litigation or proceeding (or threatened litigation or proceeding or basis therefor) exists which could adversely affect the validity or priority of the liens and security interests granted Lender under the Loan Documents, which could adversely affect the ability of Borrower to complete the Project (or applicable portion thereof) prior to the earlier of (i) the date required in any Lease and (ii) the Completion Date, which could materially and adversely affect the ability of Borrower or any Guarantor to perform their obligations under the Loan Documents, which could constitute an Event of Default under any of the Loan Documents or which would constitute such an Event of Default with the giving of notice or lapse of time, or both;

(f) The Land, the present use and occupancy of the Land, the Plans and Specifications, the construction of the Project pursuant to the Plans and Specifications and the use and occupancy of the Premises and any Offsite Improvements when the Project is completed, will not violate or conflict with any applicable law, statute, ordinance, rule, regulation or order of any kind, including, without limitation, Environmental Laws, zoning, building, land use, noise abatement, occupational health and safety or other laws, any building permit or any condition, grant, easement, covenant, condition or restriction, whether recorded or not and if a third-party is required under any covenants, conditions and restrictions of record or any other agreement to consent to the construction, use and/or operation of the Project, Borrower has obtained such approval from such party. In addition, and without limiting the foregoing, the Borrower shall (a) ensure that no person or entity owns a controlling interest in or otherwise controls the Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of any Loan Proceeds to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended;

(g) The Land, to Borrower's knowledge, has never been used, and the Premises will not be used, for any activities which, directly or indirectly, involve the use, generation, treatment, storage, transportation or disposal of any Hazardous Materials. No Hazardous Materials exist now, and no Hazardous Materials will hereafter exist, on or under the Premises or in any surface waters or groundwaters on or under the Premises. The Premises and its existing and prior uses, to Borrower's knowledge, have at all times complied with and will comply with all Environmental Laws, and Borrower has not violated, and will not violate, any Environmental Laws;

(h) There are no facilities on the Premises which are subject to reporting under any State laws or Section 312 of the Federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Section 11022), and federal regulations promulgated thereunder. The Premises do not contain any underground storage tanks;

(i) All financial statements submitted by Borrower or any Guarantor to Lender in connection with this Loan are true and correct in all material respects, have been prepared in accordance with generally accepted accounting principles consistently applied, and fairly present the respective financial conditions and results of operations of the entities which are their subjects;

(j) This Agreement and all financial statements, budgets, schedules, opinions, certificates, confirmations, Contractor's statements, applications, rent rolls, affidavits, agreements, Construction Contracts, and other materials submitted to Lender in connection with or in furtherance of this Agreement by or on behalf of Borrower or any Guarantor fully and fairly state the matters with which they purport to deal, and neither misstate any material fact nor, separately or in the aggregate, fail to state any material fact necessary to make the statements made not misleading;

(k) Subject only to payment of fees reflected in the Project Budget, all utility and municipal services required for the construction, occupancy and operation of the Premises, including, but not limited to, water supply, storm and sanitary sewage disposal systems, cable services, gas, electric and telephone facilities are available for use and tap-on at the boundaries of the Land, and written permission has been obtained from the applicable utility companies or municipalities to connect the Project into each of said services;

(l) All gov ernmental permits and licenses required by applicable law to construct, occupy and operate the Premises and the Project have been validly issued and are in full force or, if the present stage of construction of the Project does not allow the issuance of all such permits and licenses, then as the construction progresses Borrower shall promptly obtain such licenses and permits as and when they become available and the Borrower knows of no groups, organizations or people that are contesting the development, construction and/or use of the Project;

(m)The storm and sanitary sewage disposal system, water system, drainage system and all mechanical systems of the Premises do (or when constructed will) comply with all applicable laws, statutes, ordinances, rules and regulations, including, without limitation, all Environmental Laws. The applicable environmental protection agency, pollution control board and/or other governmental agencies having jurisdiction of the Premises have issued their permits for the construction, tap-on and operation of those systems;

(n) All utility, parking, access (including curb-cuts and highway access), construction, recreational and other permits and easements required to date for the construction and use of the Premises have been granted and issued;

(o) When completed in accordance with the Plans and Specifications, the Project will not encroach upon any building line, set back line, sideyard line, or any recorded or visible easement (or other easement of which Borrower is aware or has reason to believe may exist) which exists with respect to the Premises;

(p) The Plans and Specifications have been designed using generally accepted trade practices, are complete in all respects, including a provision for all Offsite Improvements, and containing all other details requisite for the Project which, when built and equipped in accordance therewith, shall be ready for the intended use thereof;

(q) In the aggregate, the Construction Contracts cover all labor, material and equipment required by the Plans and Specifications or necessary to complete the Project, excepting only the labor, material and equipment to be provided pursuant to the Remaining Subcontracts;

(r) The Loan, including interest rate, fees and charges as contemplated hereby, is a business loan; the Loan is an exempted transaction under the Truth In Lending Act, 12 U.S.C. { 1601 et seq.; and the Loan does not, and when disbursed will not, violate the provisions of the usury laws of the State, any consumer credit laws or the usury laws of any state which may have jurisdiction over this transaction, Borrower or any property securing the Loan;

(s) There are no Leases for use or occupancy of any part of the Premises other than as previously delivered to and approved by Lender; and

(t) The Leases are in full force and effect; no defaults have occurred thereunder; no tenant under any Lease has a right of set-off against payment of rent due thereunder; no events or circumstances exist which, with the passage of time or the giving of notice, or both, would constitute a default under a Lease; and enforcement of the Leases by Borrower or by Lender pursuant to an exercise of Lender's rights under the Assignment of Leases and Rents would be subject to no defenses of any kind.

2.2 **Continuation of Representations and Warranties**. The Borrower hereby covenants, warrants and agrees that the representations and warranties made in Section 2.1 hereof shall be and shall remain true and correct at the time of the Loan Opening and at all times thereafter so long as any part of the Loan shall remain outstanding. Each Request For Advance shall constitute a reaffirmation that these representations and warranties are true as of the date of such Request For Advance and will be true on the date of the advance.

ARTICLE 3

THE LOAN

3.1 **Agreement to Borrow and Lend**. Borrower agrees to borrow from Lender, and Lender agrees to lend to Borrower an amount not to exceed the Loan Amount on the terms of and subject to the conditions of this Agreement. In no event shall any portion of the Loan be disbursed after the Maturity Date, even if Borrower elects to extend the Maturity Date to the Extended Maturity Date pursuant to the terms of the Note.

3.2 **Interest**. Interest on funds advanced hereunder shall:

(a) from the Loan Opening until the Maturity Date, accrue at the Interest Rate;

(b) be computed upon advances of the Loan from and including the date of each advance by Lender to or for the account of Borrower (whether to an escrow or otherwise), on the basis of a three hundred sixty (360)-day year and the actual number of days elapsed in any portion of a month in which interest is due; and

(c) be paid by Borrower to Lender (unless deducted from the Interest Reserve) together with principal payments, if any, in the manner set forth in the Note. Borrower hereby directs and authorizes Lender to disburse interest to itself from the line item in the Project Budget allocated therefor on the date interest is due under the terms of the Note; provided that if on any date interest is due there shall be insufficient funds allocated to interest in the Project Budget, as determined by Lender in its sole discretion, then Borrower shall pay interest due from a source other than Loan Proceeds.

3.3 **Maturity Date**. Prior to the Maturity Date, principal payments, if any, shall be made as provided in the Note. The entire principal balance of the Note and all accrued and unpaid interest thereon shall be due, if not sooner paid, on the Maturity Date.

3.4 **Equity Requirements**. Borrower shall furnish equity in the amount of the Equity Requirements for the Project, including the acquisition of the Land and construction of the Project. Such amount shall be so disbursed prior to any disbursement of Loan Proceeds. Lender shall not be required to accept any portion of the Equity Requirements in a form other than cash.

ARTICLE 4

LOAN DOCUMENTS

4.1 **Loan Documents**. As a condition precedent to the Loan Opening, Borrower agrees that it will deliver the following Loan Documents to Lender at least five (5) days prior to the Loan Opening, all of which must be satisfactory to Lender and Lender's counsel in form, substance and execution:

(a) **Promissory Note**. The Amended and Restated Note, duly executed by Borrower payable to the order of Lender, in the Loan Amount.

(b) **Construction Deed of Trust**. The Deed of Trust duly executed by Borrower and conveying good and indefeasible title to the Land and granting a first lien on the Land to secure the Note, the Loan and all obligations of Borrower in connection therewith.

(c) **First Modification**. The First Modification, duly executed and acknowledged by Borrower, Opus West and Lender.

(d) **Assignment of Rents and Leases**. The Assignment.

(e) **Opus West Guaranty**. A Guaranty of Payment executed by Opus West guaranteeing to Lender payment of all amounts due in connection with the Loan.

(f) **Allance Guaranty**. An Assignment of Guaranty executed by Borrower in favor of Lender along with the Consent to Assignment of Guaranty and Estoppel executed by Alliance in favor of Lender guaranteeing completion of the Project pursuant to the terms of the Contract, in accordance with all applicable law and free of claims for mechanics' liens and materialmen's liens on or before the Completion Date (the "Alliance Guaranty").

(g) **Environmental Indemnity**. An agreement from Opus West and Borrower to Lender, indemnifying Lender for all risks, liabilities, costs and expenses associated with environmental matters at the Premises.

(h) **Assignment of Plans, Specifications, Construction and Service Contracts, Licenses and Permits**. An assignment to Lender of Borrower's rights in and to all contracts, plans and specifications, tests, reports, permits, licenses and approvals which may be obtained for the construction and use of the Project, which assignment shall contain the consent of the Contractor, Architect and other applicable professionals and such parties' agreement to continue performance under its contract on behalf of Lender if Lender shall exercise its rights under the Assignment.

(i) **Collateral Assignments**. Collateral assignments of such agreements, leases, contracts and other rights or interests of Borrower with respect to the Project as Lender may reasonably request.

(j) **Other Loan Documents**. Such other documents and instruments as further security for the Loan as Lender may reasonably require.

ARTICLE 5

CONDITIONS TO LOAN OPENING

5.1 **Conditions to Loan Opening**. As a condition precedent to the Loan Opening, Borrower shall furnish the following to Lender at least five (5) days prior to the Loan Opening or at such time as is set forth below, all of which must be strictly satisfactory to Lender and Lender's counsel in form, content and execution:

(a) **Title Insurance Policy**. At the Loan Opening, a Mortgagee Policy of Title Insurance – T-2 Loan Policy issued on the date of the Loan Opening by the Title Insurance Company to Lender in the full amount of the Loan, insuring the Deed of Trust to be a valid first, prior and paramount lien upon the fee title to the Premises subject only to the Permitted Exceptions and to customary exceptions for pending disbursements of the Loan ("Title Insurance Policy") and containing such endorsements as Lender shall require and are available in the State.

(b) **Survey**. A copy of the survey issued in connection with the Original Note, which survey has been previously reviewed and approved by Lender together with a certification from the Borrower that there has been no changes to the Premises.

(c) **Insurance Policies**. Borrower shall, during the term of this Agreement, procure at its expense and keep in force the insurance coverages required by the Deed of Trust. All insurance shall be in form, content and amounts approved by Lender and written by an insurance company or companies licensed to do business in the state in which the Premises are located and domiciled in the United States or a governmental agency or instrumentality approved by Lender. The policies for such insurance shall have attached thereto standard mortgagee clauses in favor of and permitting Lender to collect any and all proceeds payable thereunder and shall include a 30 day (except for nonpayment of premium, in which case, a 10 day) notice of cancellation clause in favor of Lender. All policies or certificates of insurance shall be delivered to and held by Lender as further security for the payment of the Note and any other obligations arising under the Loan Documents, with evidence of renewal coverage delivered to Lender at least 15 days before the expiration date of any policy.

(d) **Utilities; Licenses; Permits**. Evidence satisfactory to Lender that:

(i) all utility and municipal services required for the construction, occupancy and operation of the Premises are available for use and tap-on at the Premises, subject only to payment of fees included in the Project Budget, or will be available after construction thereof as provided in the Construction Contracts, subject only to payment of costs and fees included in the Project Budget;

(ii) all permits, licenses and governmental approvals ("Permits"), including a building permit issued by the appropriate governmental authority authorizing construction of the Project in accordance with the Plans and Specifications and including tap-on permits and liquor licenses (if and to the extent available), required by applicable law to construct, occupy and operate the Premises have been issued, are in full force and all fees therefor have been fully paid or, if the stage of construction of the Project does not allow the issuance of all such Permits, then Borrower shall provide evidence, satisfactory to Lender that as the construction progresses Borrower will promptly obtain and deliver to Lender such Permits as and when they become available;

(iii) the storm and sanitary sewage disposal system, the water system and all mechanical systems serving the Premises do (or when constructed will) comply with all applicable laws, ordinances, rules and regulations, including Environmental Laws and the applicable environmental protection agency, pollution control board and/or other governmental agencies having jurisdiction of the Premises have issued (or will issue) their permits for the construction and operation thereof; and

(iv) all utility, parking, access (including curb-cuts and highway access), construction, recreational and other easements and Permits required for the construction and use of the Premises have been granted or issued, or if the stage of construction of the Project does not allow the issuance of all such easement and Permits, then Borrower shall provide evidence satisfactory to Lender that as the construction progresses, Borrower will promptly obtain and deliver to Lender such easements and Permits as and when they are required to be obtained or issued;

which evidence shall include a certificate of the Architect or opinion of Borrower's counsel reciting the above matters and listing (and reciting that there are so listed) all such services, permits, licenses and easements, together with copies of all Permits and all utility letters, licenses and grants of easements.

(e) **Geotechnical Report**. A geotechnical report prepared by a licensed soil engineer satisfactory to Lender showing the locations of all borings, containing boring logs for all borings together with recommendations for the design of the foundations, paved areas and underground utilities for the Project, confirming that there are no mining facilities, sink holes or voids beneath the Land, confirming that no conditions exist which could cause subsidence of any portion of the Land and showing no state of facts which could adversely affect the Project.

(f) **Environmental Report**. A written report ("Environmental Report") prepared at Borrower's sole cost and expense by an independent professional environmental consultant approved by Lender in its sole and absolute discretion. The Environmental Report shall be subject to Lender's approval in its sole and absolute discretion. If the Environmental Report reveals contamination or conditions warranting further investigation in order to establish baseline data, Lender may require, in its sole and absolute discretion, a written report (also referred to herein as the "Environmental Report") based on additional testing and investigation in order to define the source and extent of the contamination or to establish baseline data, as well as to provide relevant detailed information on the area's geological and hydrogeological conditions. Any additional Environmental Report prepared pursuant to this requirement shall be subject to Lender's approval, in its sole and absolute discretion. Lender acknowledges that the Environmental Report delivered to Lender and approved by Lender in connection with the execution of the Original Note satisfies the foregoing requirement.

(g) **Appraisal**. An appraisal satisfactory and addressed to Lender prepared by a certified or licensed appraiser who is approved by Lender. The appraisal must show an appraised value of the Premises, assuming completion of the Project in accordance with the Plans and Specifications, such that the ratio of the Loan Amount to the appraised value of the Premises shall be no more than eighty percent (80%). Furthermore, the appraisal must show an appraised value of the Premises, such that the ratio of the Loan Amount to the cost of completion of the Project, as reflected in the Project Budget, shall not exceed eighty seven percent (87%).

(h) **Documents of Record**. To the extent not previously delivered to Lender in connection with the Original Note, copies of all covenants, conditions, restrictions, easements and matters of record which affect the Premises.

(i) **Searches** . A report from the Title Insurance Company or the appropriate filing officers of the state and county in which the Land is located, indicating that no judgments, tax or other liens, security interests, leases of personalty, financing statements or other encumbrances (other than Permitted Exceptions and liens and security interests in favor of Lender) are of record or on file encumbering any portion of the Land.

(j) **Plans and Specifications**. Three (3) complete sets of the existing detailed Plans and Specifications for the Project, including all changes to the date of submission thereof, showing identification thereof by the Architect and generally consistent with any preliminary plans theretofore submitted to Lender, together with evidence satisfactory to Lender that the Plans and Specifications have been approved by the Contractor and tenants under Leases if and to the extent applicable. The Plans and Specifications must be reasonably satisfactory to Lender in all respects and must be approved in writing by Lender. Borrower shall deliver three (3) complete sets of the final Plans and Specifications for the Project upon completion of such Plans and Specifications.

(k) **Architect's Certificate**. An Architect's Certificate in the form attached hereto as **Exhibit D** or such other form as may be approved by Lender.

(l) **Engineer's Ce rtificate**. An Engineer's Certificate in the form attached hereto as **Exhibit E** or such other form as may be approved by Lender.

(m)**Construction Contracts**. Certified copies of the executed Contract and any executed Subcontracts for work and materials in excess of $100,000, including purchase orders for all fixtures and equipment to be installed in the Project, which shall conform to applicable terms of this Agreement, including, without limitation, provisions regarding retainage, changes in Plans and Specifications, change orders, extras and construction schedule and which must be strictly satisfactory to Lender and Lender's counsel in all respects; provided that if such Construction Contracts do not cover all of the work necessary for completion of construction of the Project, including the installation of fixtures and equipment and work required for the operation of the Project, required to make leasable any portion of the Project intended to be leased, Borrower shall furnish detailed studies, designs, budgets and schedules, construction contracts and any other information that Lender shall reasonably require with respect to such additional work from responsible parties satisfactory to Lender. If Lender elects to disburse any Loan Proceeds prior to execution of all Construction Contracts necessary to complete the Project, Lender may increase the amount of the Equity Requirements or require Borrower to deposit additional funds with Lender, as reasonably determined by Lender, to secure Borrower's ability to obtain the remaining Construction Contracts necessary to complete the Project within the Project Budget.

(n) **Architect's and Engineers' Contracts**. A certified copy of the executed Architect's Contract and any other engineers' contracts, which shall be in a format and of a scope which is commensurate with industry practice for projects of a similar size and nature, conform to applicable terms of this Agreement, and which must be reasonably satisfactory to Lender and Lender's counsel in all material respects.

(o) **Sworn Statement**. A sworn statement ("Owner's Sworn Statement") from Borrower (and/or such other party as may be required by the Title Insurance Company or applicable mechanics' lien laws) and a sworn statement from the Contractor setting forth a description of all contracts existing executed by Borrower or by the Contractor with respect to the Land, the names and addresses of the contractors, engineers and other parties under those contracts, the date of each such contract and of any supplements or amendments thereto, the nature and scope of the work covered thereby, and the aggregate amounts theretofore paid and estimates of amounts thereafter to be paid to each contractor thereunder; and further stating whether said contracts include all of the work required to be done and all of the material necessary for completion of the Project in accordance with the Plans and Specifications, and, if not, providing sufficient information to enable Lender to estimate the cost of any work or materials not so covered.

(p) **Intentionally Omitted**.

(q) **Construction Schedule**. A schedule ("Construction Schedule") in form and content reasonably satisfactory to Lender which, among other things, sets forth dates for commencement and completion of all phases of the Project, indicates projected cash flow and the time for performance of the work to be accomplished under the Contract and each Subcontract, and includes a statement from the Contractor that, in its best professional judgment, the Construction Schedule is realistic and can be adhered to, subject to an Excusable Delay (as defined herein) in completing the Project in accordance with the Plans and Specifications. An "Excusable Delay" means a delay, not to exceed a total of thirty (30) consecutive days, caused by unusually adverse weather conditions which have not been taken into account in the Construction Schedule, fire, earthquake or other acts of God, strikes, lockouts, acts of public enemy, riots or insurrections or any other unforeseen circumstances or events beyond the reasonable control of Borrower (except financial circumstances or events which may be resolved by the payment of money), and as to which Borrower notifies Lender in writing within ten (10) days after Borrower is actually aware of such occurrence; provided, however, no Excusable Delay shall suspend or abate any obligation of Borrower or any other person to pay any money nor may an Excusable Delay extend construction or any other obligation beyond the Maturity Date.

(r) **Borrower's Attorney's Opinion**. An opinion of Borrower's counsel addressing such issues as Lender may request, substantially in the form of that provided to Lender in connection with the execution of the Original Note:

(s) **Organizational Documents**. A copy of the partnership agreement creating Borrower certified by a general partner of such partnership as being a true and correct copy and as otherwise unmodified and in full force and effect, together with a notarized incumbency certificate showing specimen signatures for all partners of Borrower executing any Loan Documents. In addition, a certificate of existence issued by the Secretary of the State and certified copy of the certificate of limited partnership (and amendments thereto) of Borrower.

(t) **Intentionally Omitted**.

(u) **Intentionally Omitted**.

(v) **Real Estate Taxes**. To the extent not previously delivered to Lender in connection with the execution of the Original Note, copies of the most recent real estate tax bills for the Land and evidence satisfactory to Lender that the Land is separately assessed for real estate taxing purposes.

(w) **Broker**. Evidence satisfactory to Lender that all brokers' commissions or fees due with respect to the Loan or the Project have been paid in full in cash.

(x) **Lender's Consultant Report**. A written report(s) prepared at Borrower's expense by Lender's Consultant, which report(s) shall be based upon an evaluation and/or investigation of specific factors and shall describe in detail the investigation and evaluations, as well as the findings. The report(s) shall include the evaluation of the Plans and Specifications and their compliance with governmental regulations; and the evaluation of the mechanical, electrical and plumbing systems to be installed in the Project and the adequacy of design and operation of the systems for their intended uses and any other matters required by Lender.

(y) **Subordinated Affiliate Debt**. In each case in which Affiliate Debt exists, Borrower shall cause each such Affiliate to deliver a subordination agreement satisfactory to Lender, in Lender's sole discretion, whereby the Affiliate Debt shall be subordinated in all respect to the Loan and all rights and liens of Lender under the Loan Documents.

(z) **Subordination of Lien**. An agreement from the Contractor subordinating it's statutory lien to the Deed of Trust.

(aa) **Additional Documents**. Such other papers and documents regarding Borrower or the Project as Lender may reasonably require.

5.2 **Termination of Agreement**. Borrower agrees that all conditions precedent to the Loan Opening will be complied with on or prior to the Loan Opening Date. If all of the conditions precedent to the Loan Opening hereunder shall not have been performed on or before the Loan Opening Date, Lender, at its option at any time thereafter and prior to the Loan Opening, may terminate this Agreement and all of its obligations hereunder by giving a written notice of termination to Borrower. In the event of such termination, Borrower shall pay all Loan Expenses (as hereinafter defined) which have accrued or been charged as of the Loan Opening Date.

ARTICLE 6

DISBURSEMENTS

6.1 **Conditions Precedent to Disbursement of Loan Proceeds**. No disbursement of Loan Proceeds shall be made by Lender to Borrower at any time unless:

(a) all conditions precedent to that disbursement have been satisfied, including, without limitation, performance of all of the then pending obligations of Borrower under this Agreement and the Loan Documents;

(b) the Loan is In Balance (as defined in Section 6.4 hereof);

(c) Lender shall be satisfied as to the continuing accuracy of the Project Budget;

(d) no Event of Default has occurred under this Agreement or under any Loan Document, and no event, circumstance or condition has occurred or exists which, with the passage of time or the giving of notice, would constitute a Event of Default under this Agreement or under the Loan Documents;

(e) no litigation or proceedings are pending or threatened (including proceedings under Title 11 of the United States Code) against Borrower, any Guarantor, the Project or the Contractor, which litigation or proceedings, could materially adversely affect Borrower's or Guarantors' obligations hereunder or under any of the Loan Documents (or which, in the case of the Contractor, could materially affect the completion of the Project);

(f) no event, circumstance or condition exists or has occurred which, in Lender's reasonable judgment, could delay or prevent the completion of the Project by the Completion Date;

(g) all representations and warranties made by Borrower to Lender herein and otherwise in connection with this Loan continue to be accurate; and

(h) if the proposed disbursement is a Construction Disbursement, the additional requirements of Section 6.3 hereof have been satisfied.

6.2 **Loan Disbursement**. Subject to the satisfaction of the terms and conditions herein contained, the Loan Proceeds shall be disbursed as follows:

(a) The Loan Opening shall be made at such time as all of the conditions and requirements of this Agreement required to be performed by Borrower or other parties prior to the Loan Opening have been satisfied or performed; but in no event shall the Loan Opening occur later than the Loan Opening Date. At the Loan Opening, Lender shall disburse funds necessary to pay any Loan Expenses then due.

(b) All Construction Disbursements will be made in accordance with the provisions of this Article 6.

(c) If any disbursement of Loan Proceeds is made by Lender into an escrow, those Loan Proceeds shall be considered to be disbursed to Borrower from the date of deposit into that escrow, and interest shall accrue on those Loan Proceeds from that date.

(d) Borrower hereby requests and authorizes Lender to make advances directly to itself for payment and reimbursement of all interest, charges, costs and expenses incurred by Lender in connection with the Loan, including, but not limited to, (i) interest due on the Loan and any points, loan fees, service charges, commitment fees or other fees due to Lender in connection with the Loan; (ii) all title examination, survey, escrow, filing, search, recording and registration fees and charges; (iii) all fees and disbursements of architects, engineers and consultants engaged by Borrower and Lender, including the fees and disbursements of the Architect, Engineers, Lender's Consultant and Lender's insurance consultant; (iv) all documentary stamp and other taxes and charges imposed by law on the issuance or recording of any of the Loan Documents; (v) all appraisal fees; (vi) all title, casualty, liability, payment, or other insurance premiums; (vii) all fees and disbursements of legal counsel engaged by Lender in connection with the Loan, including, without limitation, counsel engaged in connection with the origination, negotiation, document preparation, consummation, enforcement or administration of this Agreement or any of the Loan Documents, which shall also include reasonable attorneys' fees and time charges of attorneys who may be employees of Lender or any affiliate of Lender; and (viii) any amounts required to be paid by Borrower under this Agreement, the Deed of Trust or any Loan Document after the occurrence of an Event of Default (all of which are herein referred to as "Loan Expenses").

(e) No disbursement of Loan Proceeds shall be made at any time that the Loan is not In Balance. Any disbursement of Loan Proceeds must be made for payment of the Project Costs in strict accordance with the Project Budget. No amendment of the Project Budget shall be made without Lender's prior written consent. No reallocation of line items within the Project Budget shall be made unless Borrower can demonstrate to Lender's satisfaction that (i) sufficient funds remain in the line item from which the amount is to be reallocated to pay all Project Costs which may be paid from that line item; and (ii) no line items in the Project Budget (other than the line item to which the reallocation is sought) are required, in Lender's judgment, to be increased.

6.3 **Documents Required for Each Construction Disbursement**. At least ten (10) business days prior to, and as a condition of, each "Construction Disbursement", Borrower shall furnish to Lender and to Lender's Consultant the following documents covering such disbursement:

(a) Borrower's disbursement request ("Request For Advance"). in the form of Exhibit "F" attached hereto, which shall, among other things specify the amount of the requested disbursement (exclusive of interest); direct Lender to disburse such funds in accordance with this Agreement; and certify to Lender, as of the date of the applicable request for disbursement, that:

(i) the total amount of each request for disbursement (exclusive of interest) represents the actual amount payable to the Contractor and/or Subcontractors who have performed work on the Project and indicating what payment requests, if any, have been received by Borrower from the Contractor or the Subcontractors but have not yet been approved by Borrower for payment;

(ii) no Event of Default, or condition or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default, exists under this Agreement;

(iii) the representations and warranties contained in Article 2 of this Agreement are true and correct;

(iv) Borrower has received no notice and has no knowledge of any liens or claims of lien either filed or threatened against the Premises except the liens of Lender and those which are specifically identified in writing to Lender;

(v) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;

(vi) approval by Borrower of all work and materials for which a payment is then due and for which disbursement of the Loan is thereby requested;

(vii) that all work and materials theretofore furnished for the Project conform with the Plans and Specifications;

(viii) all Construction Contracts, as then in effect, have been duly executed and delivered by all parties thereto and shall be effective, and Lender has received a true and fully executed copy of each such Construction Contract with an aggregate contract amount in excess of $100,000.00;

(ix) all change orders or changes to the Plans and Specifications have been submitted to and approved by Lender and Lender's Consultant, if and to the extent that Lender or Lender's Consultant's approval to such change orders or changes is required by this Agreement; and

(x) the Loan is In Balance;

(b) A certificate as to completion and payment authorization in form reasonably approved by Lender, properly executed by the Contractor or the Subcontractors seeking payment, the Architect and Lender's Consultant;

(c) Copies of all change orders included in such Request For Advance;

(d) A certificate executed by Borrower in form reasonably approved by Lender, regarding the amount of all soft costs included in such Request For Advance, together with copies of the invoices for such soft costs;

(e) Owner's, Contractor's and Subcontractors' sworn statements and waivers of lien, covering all work for which disbursement is to be made to a date specified therein, and covering all work done on the Premises, to a reasonably current date, otherwise paid for or to be paid for by Borrower or any other person, all in compliance with the mechanics' lien laws of the State and with the requirements of Lender, together with such invoices, contracts or other supporting data as Lender may require;

(f) Evidence reasonably satisfactory to Lender that all fixtures and equipment are and will remain free of security interests of all kind other than security interests of Lender;

(g) A downdate endorsement to the Title Insurance Policy (in the form promulgated for use in the State of Texas) to reflect the amount and date of the Construction Disbursement (whether into escrow or otherwise) and no liens or encumbrances affecting the Land, other than those which have been approved by Lender, inchoate liens for taxes and assessments which are not yet due and payable, and the Permitted Exceptions. Said endorsement may be delivered to Lender concurrently with the disbursement of the Loan Proceeds which are the subject of the endorsement;

(h) Such other papers and documents as the Title Insurance Company may require for the issuance of each downdate endorsement to the Title Insurance Policy for each disbursement of Loan Proceeds;

(i) I f the Construction Schedule is revised, an updated Construction Schedule, including a statement from each of the Contractor and the Architect that, in their best professional judgment, the Construction Schedule, as updated and subject to Excusable Delay, is realistic and can be adhered to in completing the Project in accordance with the Plans and Specifications;

(j) A report from Lender's Consultant, in form and substance satisfactory to Lender;

(k) If the Foundation Work of the Project is completed, Lender shall have received and approved the documents described in Section 6.5 hereof;

(l) Such other schedules, certificates, documents and other materials as Lender or Lender's Consultant may reasonably request; and

(m) After commencement of construction under the Contract, an affidavit of commencement, executed by Borrower and Contractor.

6.4 **Loan In Balance**. Notwithstanding anything to the contrary contained in this Agreement, it is expressly understood and agreed that the Loan at all times shall be In Balance (as hereinafter defined). The Loan shall be deemed to be "In Balance" only if the total of the Available Funds (as hereinafter defined), in Lender's sole and absolute judgment, shall equal or exceed the aggregate of: (i) the amount required to pay interest on the Loan to the Maturity Date; (ii) the amounts to be paid as retainage to persons who have supplied labor, services or materials to the Project including, without limitation, the Contractors, the Architect and all subcontractors; (iii) the amount required, in Lender's sole and absolute judgment, for a contingency reserve; and (iv) the amount necessary to pay for all unpaid costs incurred or to be incurred in the completion of the construction of the Project and operation of the Project until the Maturity Date, including the cost of purchase and installation of all fixtures and equipment and all work required to finish or improve any portion of the Premises to be leased, if any. As used herein, the term "Available Funds" shall mean:

(a) the undisbursed proceeds of the Loan, net of any unpaid accrued interest on the Loan; plus

(b) any other amounts deposited by Borrower pursuant to this Section 6.4 and then held by Lender; plus

(c) the value of any portion of the Equity Requirements as may be then held in cash by Lender; for the purposes hereof, letters of credit shall not be treated as cash or a cash equivalent.

Borrower agrees if for any reason the Loan is not In Balance, Borrower, within ten (10) days after request by the Lender, will deposit with Lender cash in an amount which will place the Loan In Balance, which deposit shall first be exhausted before any further disbursement of the proceeds of the Loan shall be made. No interest shall be payable on such amounts.

6.5 **Foundation Work**. Upon completion of the foundations for the Project, Borrower shall promptly deliver to Lender the materials specified below:

(a) a currently dated revision of the Survey showing all foundations of the Project in place and showing the location of any other subsurface work completed as of that date which constitutes part of the Project (the foundations and such subsurface work are referred to herein as "Foundation Work") and showing no encroachments of the Foundation Work over any easements or lot lines and showing no violations of any building lines;

(b) a certificate from the Architect stating that the Foundation Work and all other work in place conforms to the Plans and Specifications and identifying any portion of the Project consisting of subsurface work which has not yet been completed; and

(c) a statement from Lender's Consultant concerning the Foundation Work.

6.6 **Lender's Verification of Contracts**. Prior to the Loan Opening, and from time to time thereafter, Lender or the Title Insurance Company may forward to the Contractor and any or all Subcontractors listed on the Owner's Sworn Statement a contract verification to confirm the terms and amount of the Contract or Subcontract for the Contractor and each Subcontractor. If there is any discrepancy between the terms and amounts as shown by the Construction Contracts, the sworn statements, and the verifications, Lender may require, as a condition to further disbursements, that such discrepancies be eliminated to its satisfaction.

6.7 **Payments Directly to Contractor or Subcontractors**. Lender, in its discretion, may make or cause to be made (through the Construction Escrow or otherwise) payments for the cost of construction of the Project directly to any Contractor and/or Subcontractor or to any vendor of fixtures and equipment or jointly to Borrower and any of such parties.

6.8 **Escrow Payouts**. Upon an Event of Default, all disbursements hereunder, at the option of Lender may be made through the construction escrow with the Title Insurance Company or any third party under the provisions of the construction escrow agreement to which said escrowee, Borrower, Lender and such of the Contractor or Subcontractors designated by Lender or by the Title Insurance Company will be parties. Borrower will cause the Contractor and Subcontractors to comply with the requirements of said escrowee in order to enable said escrowee to issue to Lender interim mechanics' lien certifications, make disbursements and obtain necessary sworn statements and waivers of lien.

6.9 **Frequency of Payouts**. Subsequent to the Loan Opening, disbursements of Loan Proceeds shall be made, and the conditions precedent to such disbursements shall be met, from time to time as construction progresses, but no more frequently than once in each calendar month.

6.10 **Consultants**. In connection with the transactions contemplated hereby, Lender shall have the right (but not the duty) to employ such consultants, including Lender's Consultant, as it may deem appropriate from time to time, to (a) review and make recommendations regarding the Plans and Specifications, the Project Budget and the Construction Schedule, (b) inspect the Premises from time to time to insure that the same are being duly constructed and equipped as herein provided, (c) review and make recommendations regarding any elements of a request for disbursement, (d) obtain information and documentation respecting the Project, attend meetings respecting the Project and formulate reports for Lender pertaining to the Project and (e) perform such other services as Lender from time to time may require, all solely on behalf of Lender. The costs and disbursements of such consultants shall be deemed "Loan Expenses." Neither Lender nor any such consultants shall be deemed to have assumed any responsibility to, or be liable to, Borrower or the Guarantor with respect to any actions taken or omitted by Lender or such consultants pursuant to this Section. Notwithstanding the aforesaid or anything else provided in this Agreement to the contrary, Borrower shall not be entitled to rely on any statements or actions of Lender's Consultant or any of Lender's other consultants and neither the Lender's Consultant nor any other consultant retained by Lender shall have the power or authority to grant any consents or approvals or bind Lender in any manner, absent confirmation by Lender of the accuracy of the information conveyed by such consultant to Borrower.

6.11 **Retainages**. An amount equal to ten percent (10%) of the cost of construction of the Improvements shall be retained by Lender and shall be paid over by Lender to Borrower, provided that no lien claims are then filed against the Premises, when all of the following have occurred to the satisfaction of Lender:

(a) Lender has received a completion certificate prepared by the Lender's Consultant and executed by Borrower and the Architect stating that the Improvements have been completed in accordance with the Plans and Specifications, together with such other evidence that no mechanics or materialmen's liens or other encumbrances have been filed and remain in effect against the Premises;

(b) each applicable governmental authority shall have duly inspected and approved the Improvements and issued final certificates of occupancy with respect to the residential portion of the Improvements and the retail portion of the Improvements to the extent such portion of the retail Improvements is subject to a Lease; provided, however, with respect to the retail portion of the Improvements which is not subject to a Lease, such retail portion of the Improvements shall have been completed and a final certificate of occupancy has been issued if and to the extent that final certificates of occupancy are customarily issued by applicable governmental authorities for "shell improvements" prior to the completion of interior finish and/or tenant improvements, so long as Borrower is not required by applicable law to complete interior finish or tenant improvements prior to occupancy by such tenant; and

(c) thirty (30) days shall have elapsed from the later of (i) the date of completion of the Improvements, as specified in Texas Property Code §53.106, if the Affidavit of Completion (as defined below) provided for in this Agreement is filed within ten (10) days after such date of completion, or (ii) the date of filing of such Affidavit of Completion is ten (10) days or more after the date of the completion of the Improvements as specified in Texas Property Code §53.106.

6.12 **Stored and Unincorporated Materials**. No disbursement for materials purchased by Borrower but not yet installed or incorporated into the Project shall be made without Lender's prior approval of the conditions under which such materials are purchased and stored. In no event shall any such disbursement be made unless the materials involved have been delivered to the Land or stored with a bonded warehouseman, with satisfactory evidence of security, insurance both during storage and transit and suitable storage. Borrower shall provide Lender, in connection with such materials, a copy of a bill of sale or other evidence of title in Borrower, together with a copy of UCC searches against Borrower and the warehouseman, if applicable, indicating no liens or claims which may affect such materials. Borrower shall provide Lender, Architect and any applicable governmental agency or testing authority having jurisdiction over the Project with access to inspect, test or otherwise examine such stored and unincorporated materials.

6.13 **Final Disbursement**. Lender will advance to Borrower, for payment of Project Costs only and in accordance with the Project Budget, the full amount of the Loan not theretofore disbursed ("Final Disbursement") when the following conditions shall have been complied with, provided that such compliance shall have occurred prior to the date that is forty

(40) days after the Completion Date but prior to the Maturity Date and no Event of Default then exists:

(a) The Architect, Borrower and Lender's Consultant certify in writing to Lender that the Project has been fully and satisfactorily completed in accordance with the Plans and Specifications;

(b) Lender has received as-built Plans and Specifications for the Project reasonably satisfactory to Lender in form and content;

(c) All Subcontractors and Contractor have supplied Lender and the Title Insurance Company with final sworn statements and full and complete waivers of all mechanics' lien claims;

(d) Lender has received a final endorsement to the Title Insurance Policy issued pursuant to Procedural Rule P-8(b)(2) of the Basic Manual of Rates, Rule and Forms promulgated by the Texas Department of Insurance and applicable to the issuance of title insurance in the State of Texas, (i) removing the exception relating to any right to assert claims for mechanics' liens on account of labor and/or materials theretofore furnished to the Premises, and (ii) deleting any exceptions related to completion of the Improvements and pending disbursements;

(e) Borrower shall have furnished to Lender permanent insurance or other appropriate insurance in form and amount and with companies satisfactory to Lender in accordance with the requirements of the Deed of Trust;

(f) Borrower shall have furnished Lender final certificates of occupancy with respect to the residential portion of the Improvements and the retail portion of the Improvements to the extent such portion of the retail Improvements is subject to a Lease; provided, however, with respect to the retail portion of the Improvements which is not subject to a Lease, such retail portion of the Improvements have been completed and a final certificate of occupancy has been issued if and to the extent that final certificates of occupancy are customarily issued by applicable governmental authorities for "shell improvements" prior to the completion of interior finish and/or tenant improvements, so long as Borrower is not required by applicable law to complete interior finish or tenant improvements prior to occupancy by such tenant;;

(g) Borrower shall have furnished a final plat of survey locating the completed Project, including all paving, driveways, fences and other exterior improvements and otherwise in form and detail reasonably acceptable to Lender;

(h) All fixtures and equipment required for the operation of the Premises shall have been installed free and clear of all liens, title retention agreements and security interests except security interests granted to Lender;

(i) L ender shall have received reports from the Title Insurance Company or the appropriate filing offices of the state and county in which the Premises are located, indicating that no judgments, tax or other liens, security interests, leases of personalty, financing statements or other encumbrances (other than Permitted Exceptions and liens and security interests in favor of Lender and no other party), are of record or on file encumbering any portion of the Premises, and that there are no judgments or tax liens outstanding in respect to Borrower;

(j) Borro wer shall have furnished copies of any additional Leases for the retail portion of the Improvements which were not delivered to Lender prior to the Loan Opening together with subordination, non-disturbance and attornment agreements and estoppel certificates from tenants thereunder, in form and substance satisfactory to Lender;

(k) Borrower and the Contractor shall have recorded an Affidavit of Completion (the "Affidavit of Completion") certifying the date construction was completed; and

(l) All other requirem ents of this Agreement shall have been complied with.

6.14 **Expenses and Advances Secured by Deed of Trust**. Any and all advances or payments made by Lender hereunder, from time to time, and any amounts expended by Lender pursuant to this Agreement, together with Lender's Consultant's fees and attorneys' fees, if any, and all other Loan Expenses, as and when advanced or incurred, shall be deemed to have been disbursed as part of the Loan and be and become secured and guaranteed by the Loan Documents to the same extent and effect as if the terms and provisions of this Agreement were set forth therein, whether or not the aggregate of such indebtedness shall exceed the face amount of the Note.

6.15 **Acquiescence not a Waiver**. To the extent that Lender may have acquiesced (whether intentionally or unintentionally) in the Borrower's failure to comply with and satisfy any condition precedent to the Loan Opening, to any Construction Disbursement or to any disbursement of Loan Proceeds, such acquiescence shall not constitute a waiver by Lender of any condition precedent set forth in this Agreement, and Lender at any time thereafter may require the Borrower to comply with and satisfy all conditions and requirements of this Agreement.

6.16 **Lender's Action for Lender's Own Protection Only**. The authority herein conferred upon Lender and any action taken by Lender or Lender's Consultant or their agents or employees in making inspections of the Premises, attending regularly scheduled Project meetings, procuring sworn statements and waivers of lien, approving Contracts and Subcontracts and approving Plans and Specifications will be taken by Lender and Lender's Consultant and by their agents or employees for their own protection only, and neither Lender nor Lender's Consultant nor their agents or employees shall be deemed to have assumed any responsibility to Borrower or any Guarantor or any other person or entity with respect to any such action herein authorized or taken by them or with respect to the proper construction and equipping of the Project, performance of Construction Contracts or prevention of claims for mechanics' or materialmen's liens.

ARTICLE 7

RESERVES

7.1 **Setting Up and Adjusting Reserves**. At the Loan Opening, Lender may pay from the proceeds of the Loan all Loan Expenses, to the extent the same have not been previously paid. Lender may also designate reserves ("Reserves") and thereafter from time to time in its reasonable discretion may adjust the amount of such Reserves as circumstances may require for any or all of the following purposes to cover the actual or estimated amounts required for such purposes until the Maturity Date of the Loan:

(a) All unpaid Loan Expenses and fees of Lender's Consultant and Lender's counsel;

(b) The Interest Reserve, comprised of an amount estimated by Lender, to provide for the payment of interest on the Loan prior to the Maturity Date. Lender initially estimates that Three Million Fifty Thousand and No/100 Dollars shall be held in an interest reserve;

(c) An amount, as estimated by Lender, for real estate taxes which will accrue prior to the Maturity Date, and for tax deposits, if any, required by the Deed of Trust;

(d) An amount, as estimated by Lender, for premiums on insurance policies required to be furnished by Borrower hereunder, payable prior to the Maturity Date and for insurance deposits, if any, required by the Deed of Trust;

(e) Funds to pay any license fees, permits and other charges and fees;

(f) An amount, as estimated by Lender, to provide for any tenant improvement holdbacks, leasing commissions, rent abatements under or pursuant to any Leases of the retail portion of the Premises; and

(g) An amount to fund a Reserve for contingencies ("Contingency Reserve") in the amount, if any, set forth in the Project Budget.

7.2 **Disbursement of Reserves**. Provided that (i) no Event of Default hereunder has occurred, (ii) no event or circumstance has occurred which, with the passage of time, the giving of notice, or both, could constitute an Event of Default and (iii) the Loan is In Balance, Lender may, and at the request of Borrower shall, disburse the Reserves for the respective purposes for which they have been set aside, either by payment of items for which the Reserves have been set aside, or by reimbursement to Borrower for payments so made by Borrower. Lender from time to time may disburse any part or all of the Contingency Reserve, but shall not be obligated to do so until all conditions for final disbursement of the Loan have been satisfied.

7.3 **No Interest Payable on Reserves**. No interest shall accrue upon Reserves held by Lender until disbursement thereof, whereupon such disbursement shall be deemed to be a disbursement of proceeds of the Loan. Payments by Lender into an escrow or title indemnity or otherwise for the benefit of Borrower or to satisfy any requirements of the Title Insurance Company shall be deemed a disbursement.

7.4 **Application of Reserves in Case of Event of Default**. In case of Event of Default, Lender may use and apply Reserves or any monies deposited by Borrower with Lender, regardless of the purpose for which deposited, to cure such Event of Default or to apply as a prepayment of the Loan.

ARTICLE 8

FURTHER AGREEMENTS OF BORROWER

8.1 **Construction of Project**. Borrower agrees that the Project will be constructed and fully equipped free and clear of all liens and encumbrances (excepting only (i) the lien of real estate taxes and assessments not due, (ii) any liens and encumbrances of Lender and (iii) any other Permitted Exceptions), in a good and workmanlike manner with materials of high quality, strictly in accordance with the Plans and Specifications, any and all covenants, conditions and restrictions of record, and applicable building, zoning and other laws and ordinances including, without limitation, Environmental Laws. Borrower further agrees that such construction and equipping of the Project will be commenced on or before the Construction Commencement Date and the Project (or applicable portion thereof) will be prosecuted with due diligence and will be fully completed not later than the earlier to occur of (i) such date that is specified in any Lease and (ii) the Completion Date. If Lender disapproves any portion of the construction or equipping of the Premises, Borrower, within fifteen (15) days after such disapproval, shall commence to correct the condition so disapproved, and thereafter will diligently complete such correction. Borrower agrees that all materials contracted or purchased for construction of the Project and all labor hired or contracted for with respect to the Project and paid for with Loan Proceeds will be used and employed solely on the Project and for no other purpose.

8.2 **Changes in Plans and Specifications and Contracts; Extras**. Borrower agrees that no changes will be made in the Plans and Specifications, no change will be made in any Construction Contract, and no extras will be allowed to any Contractor or Subcontractor, except upon the written approval of the same by Lender; provided, however, Borrower may make changes in the Plans and Specifications or in the Construction Contracts, or allow such extras, without first obtaining such approval thereof, if (a) Borrower notifies Lender in writing of such change within one (1) business day thereafter; (b) Borrower obtains the approval of all parties to the Construction Contract proposed to be modified, the tenants under all Leases of the Premises, if any, affected by the proposed modification, and all sureties whose approval is required; (c) the structural integrity of the Project is not impaired; (d) no substantial change in architectural appearance is effected; (e) the square footage of the Project is not reduced; (f) no default in any obligations to any other party, including any governmental authority, results from such changes; (g) the cost of or reduction resulting from no one such change or extra exceeds Ten Thousand Dollars ($10,000.00) and the aggregate changes in cost of all such changes and extras does not exceed Fifty Thousand Dollars ($50,000.00); and (h) the Loan remains In Balance.

8.3 **Mechanics' Liens, Taxes and Contest Thereof**. Borrower agrees that it will not suffer or permit any mechanics' lien claims to be filed or otherwise asserted against the Premises and will promptly discharge the same in case of the filing of any claims for lien or proceedings for the enforcement thereof, and will pay all special assessments which have been placed in collection and all real estate taxes and assessments of every kind (regardless of whether the same are payable in installments) upon the Premises, before the same become delinquent; provided, however, that Borrower shall have the right to contest in good faith and with reasonable diligence the validity of any such lien, claim, tax or assessment if the right to contest such matters is expressly granted in the Deed of Trust. If Borrower shall fail promptly either to discharge or to contest claims, taxes or assessments asserted or give security or indemnity in the manner provided in the Deed of Trust, or having commenced to contest the same, and having given such security or indemnity shall fail to prosecute such contest with diligence, or to maintain such indemnity or security so required by the Deed of Trust, or upon the adverse conclusion of any such contest, to cause any judgment or decree to be satisfied and lien to be released, then and in any such event Lender may, at its election (but shall not be required to), procure the release and discharge of any such claim and any judgment or decree thereon and, further, in its sole discretion, effect any settlement or compromise of the same. Any amounts so expended by Lender, including premiums paid or security furnished in connection with the issuance of any surety bonds, shall be deemed to constitute disbursement of the proceeds of the Loan hereunder. In settling, compromising, discharging or providing indemnity or security for any claim for lien, tax or assessment, Lender shall not be required to inquire into the validity or amount thereof.

8.4 **<u>Fixtures and Personal Property</u>**. Except for a security interest granted to Lender, Borrower agrees that all of the personal property, fixtures, attachments, furnishings and equipment delivered in connection with the construction, equipping or operation of the Project will be kept free and clear of all chattel mortgages, vendor's liens, and all other liens, claims, encumbrances and security interests whatsoever, and that Borrower will be the absolute owner of said personal property, fixtures, attachments and equipment. Borrower, on request, will furnish Lender with satisfactory evidence of such ownership, and of the terms of purchase and payment therefor.

8.5 **<u>Proceedings to Enjoin or Prevent Construction</u>**. If any proceedings are filed or are threatened to be filed seeking to (a) enjoin or otherwise prevent or declare invalid or unlawful the construction, occupancy, maintenance or operation of the Project or any portion thereof; (b) adversely affect the validity or priority of the liens and security interests granted Lender hereby; or (c) adversely affect the financial condition of Borrower or any Guarantor or the ability of Borrower to complete the Project, then Borrower will notify Lender of such proceedings and within two (2) business days following Borrower's notice of such proceedings, Borrower will cause such proceedings to be vigorously contested in good faith, and in the event of an adverse ruling or decision, prosecute all allowable appeals therefrom. Without limiting the generality of the foregoing, Borrower will resist the entry or seek the stay of any temporary or permanent injunction that may be entered, and use its best efforts to bring about a favorable and speedy disposition of all such proceedings.

8.6 **<u>Event of Defaults Under Construction Contracts</u>**. Borrower will not suffer or permit any breach or default to occur in any of the obligations of Borrower under the Construction Contracts nor suffer or permit the same to terminate by reason of any failure of Borrower to meet any requirement thereof including those with respect to any time limitation within which the Project is to be completed and available for occupancy; Borrower will keep the Construction Contracts in full force and effect and promptly notify Lender of any default thereunder; Borrower will comply with all conditions of the Construction Contracts and will execute all documents necessary for the consummation of the transactions contemplated thereby.

8.7 <u>**Furnishing Information**</u>. Borrower will:

(a) cooperate with Lender in arranging for inspections by representatives of Lender of the progress of construction from time to time;

(b) promptly supply Lender with such information concerning its assets, liabilities and affairs, and the assets, liabilities and affairs of Guarantor, as Lender may reasonably request from time to time hereafter; which in the case of Borrower once the Project is complete shall include, without necessity of any request by Lender, as soon as available and in no event later than ninety (90) days after the close of each fiscal year, and within thirty (30) days of the end of each fiscal quarter, financial statements of Borrower showing the results of operations of the Premises and consisting of a balance sheet and statement of income and expense prepared in accordance with generally accepted accounting principles and certified by an officer of Borrower; and which in the case of Guarantor shall include, without any necessity of request by Lender, as soon as available and in no event later than one hundred twenty (120) days after the close of each fiscal year, and within sixty (60) days after the close of each fiscal quarter, financial statements of Guarantor certified by Guarantor as being true and correct;

(c) once the Project is complete, Borrower will furnish on a quarterly basis updated 12 month cash flow projections and a rent roll, each certified by Borrower's chief financial officer;

(d) promptly notify Lender of any condition or event which constitutes (or which, with the giving of notice or lapse of time, or both, would constitute) an Event of Default, and of any material adverse change in the financial condition of Borrower or any Guarantor;

(e) maintain a standard and modern system of accounting in accordance with generally accepted accounting principles consistently applied;

(f) permit Lender or any of its agents or representatives to have access to and to examine all books and records regarding the Premises at any time or times hereafter during business hours; and

(g) permit Lender to copy and make abstracts from any and all of said books and records.

8.8 <u>**Excess Indebtedness**</u>. Borrower agrees to pay to Lender on demand the amount by which the indebtedness hereunder, at any time, may exceed the Loan Amount.

8.9 <u>**Compliance with Covenants; Prohibition Against Additional Recordings**</u>. Borrower will comply with all recorded or other covenants affecting the Premises. Borrower will not record or permit to be recorded any document, instrument, agreement or other writing against the Land or Improvements without the prior written consent of Lender.

8.10 **Project Accounts**. Borrower will set up and maintain all operating accounts and other accounts related to the Project with Lender.

8.11 **Distributions**. Borrower shall not make any distributions to its members, partners or shareholders, as the case may be, of any revenue received by or on behalf of Borrower from the operation and ownership of the Project, unless or until the Loan and all interest accrued thereon and other amounts due and owing to Lender under the Loan Documents have been repaid in full.

8.12 **Further Assurance**. Borrower, on request of Lender, from time to time, will execute and deliver such documents as may be necessary to perfect and maintain perfected as valid liens upon the Premises the liens granted to Lender pursuant to this Agreement, and to fully consummate the transactions contemplated by this Agreement.

8.13 **Minimum Adjusted Tangible Net Worth**. At all times, Opus West shall maintain an Adjusted Tangible Net Worth of at least $75,000,000.00. The Adjusted Tangible Net Worth shall be calculated as of the end of each fiscal quarter and fiscal year.

8.14 **Maximum Leverage Ratio**. From the date hereof through December 31, 2007, Opus West shall maintain a Leverage Ratio of equal to or less than 6.0:1.0. At all times after January 1, 2008, Opus West shall maintain a Leverage Ratio of equal to or less than 5.0:1.0. Opus West's Leverage Ratio shall be calculated as of the end of each fiscal quarter and fiscal year.

8.15 **Minimum Liquidity**. At all times, Opus West shall own not less than $2,000,000.00 of liquid assets in the form of cash or cash equivalents (as determined in accordance with GAAP).

8.16 **Outstanding Bank Debt Ratio**. From the date hereof through December 31, 2007, Opus West shall maintain an Outstanding Bank Debt Ratio of equal to or less than 5.0:1.0. At all times after January 1, 2008, Guarantor shall maintain an Outstanding Bank Debt Ratio of equal to or less than 4.0:1.0. Outstanding Bank Debt Ratio shall be calculated as of the end of each fiscal quarter and fiscal year.

8.17 **Deferred Development Fee**. Borrower shall defer payment of the Deferred Development Fees until such time as the Loan and all amounts due Lender under any of the Loan Documents are paid in full.

8.18 **Notices Regarding Liens**. Borrower shall notify and forward copies to Lender of all Affidavits (as defined herein) received pursuant to any of §§53.055 - 53.058 inclusive of the Texas Property Code.

ARTICLE 9

CASUALTIES AND CONDEMNATION

9.1 **Application of Insurance Proceeds and Condemnation Awards**. The proceeds of any insurance policies collected or claims as a result of any loss or damage to any portion of the Project resulting from fire, vandalism, malicious mischief or any other casualty or physical harm and any awards, judgments or claims resulting from the exercise of the power of condemnation or eminent domain shall be applied to reduce the outstanding balance of the Loan or to rebuild and restore the Project, as provided in the Deed of Trust. Borrower shall not settle and adjust any claims under policies of insurance without Lender's prior written consent, except as provided in the Deed of Trust.

ARTICLE 10

ASSIGNMENTS, SALE AND ENCUMBRANCES

10.1 **Lender's Right to Assign**. Lender may assign, negotiate, pledge or otherwise hypothecate this Agreement or any of its rights and security hereunder, including the Note, Deed of Trust, and other Loan Documents to any bank, participant, financial institution, or any other person or entity and in case of such assignment, Borrower will accord full recognition thereto and agree that all rights and remedies of Lender in connection with the interest so assigned shall be enforceable against Borrower by such bank, participant, financial institution or any other person or entity with the same force and effect and to the same extent as the same would have been enforceable by Lender but for such assignment.

10.2 **Prohibition of Assignments and Encumbrances by Borrower**. Except as expressly provided in the Deed of Trust, Borrower, without the prior written consent of Lender, shall not create, effect, consent to, attempt, contract for, agree to make, suffer or permit any Prohibited Transfer (as defined in the Deed of Trust).

ARTICLE 11

EVENTS OF DEFAULT BY BORROWER

11.1 **Event of Default Defined**. The occurrence of any one or more of the following shall constitute an "Event of Default" as said term is used herein, and any Event of Default which may occur hereunder shall constitute an Event of Default under each of the other Loan Documents:

(a) Borrower fails to pay (i) any installment of principal or interest payable pursuant to the Note within five (5) business days of the date when due, or (ii) any other amount payable to Lender under the Note, this Agreement or any of the other Loan Documents within five (5) business days after the date when any such payment is due in accordance with the terms hereof or thereof;

(b) Borrower fails to perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Borrower under the Note, this Agreement or any of the other Loan Documents; provided, however, that if such failure by its nature can be cured, then so long as the continued operation and safety of the Premises, and the priority, validity and enforceability of the liens created by the Deed of Trust or any of the other Loan Documents and the value of the Premises are not materially impaired, threatened or jeopardized, then Borrower shall have a period ("Cure Period") of thirty (30) days after Borrower obtains actual knowledge of such failure or receives written notice of such failure to cure the same and an Event of Default shall not be deemed to exist during the Cure Period, provided further that if Borrower commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure, the Cure Period shall be extended for forty-five (45) additional days, but in no event shall the Cure Period be longer than seventy-five (75) days in the aggregate;

(c) The existence of any inaccuracy or untruth in any material respect in any representation or warranty contained in this Agreement or any of the other Loan Documents or of any statement or certification as to facts delivered to Lender by Borrower or Guarantor;

(d) The reasonable disapproval by Lender of any construction work and failure of Borrower to commence correction to the satisfaction of Lender within fifteen (15) days thereafter and diligently complete the same;

(e) An unreasonable delay in the construction of the Project or a discontinuance or abandonment of construction for a period of fifteen (15) consecutive days or thirty (30) days in the aggregate excluding Excusable Delays, material failure to adhere to the Construction Schedule, or in any event an unreasonable delay in construction of the Project so that the same, in Lender's reasonable judgment, may not be completed on or before the Completion Date;

(f) The bankruptcy or insolvency of any Contractor or Subcontractor and, in the case of the Contractor, failure of Borrower to procure a replacement Contractor satisfactory to Lender within fifteen (15) days from the occurrence of such bankruptcy or insolvency, and in the case of a Subcontractor, to procure a replacement Subcontractor satisfactory to Lender within thirty (30) days from the occurrence of such bankruptcy or insolvency;

(g) The occurrence of a Prohibited Transfer (as defined in the Deed of Trust);

(h) The existence of any collusion, fraud, dishonesty or bad faith by or with the knowing acquiescence of Borrower or any Guarantor which in any way relates to or affects this Loan or the Project;

(i) Failure by Borrower to deposit with Lender funds required to maintain the Loan In Balance within the time and in the manner herein required;

(j) If there occurs a material adverse change in the financial condition of Borrower or any Guarantor;

(k) The termination of the Contract or the Architect's Contract without Lender's prior written consent;

(l) If the conditions set forth in Section 6.13 hereof are not complied with on or before the deadline(s) specified in Section 6.13;

(m)Borrower or any Guarantor (i) files a voluntary petition in bankruptcy or is adjudicated a bankrupt or insolvent or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal, state, or other statute or law, or (ii) seeks or consents to or acquiesces in the appointment of any trustee, receiver or similar officer of Borrower or of all or any substantial part of the property of Borrower or any Guarantor or any of the Premises; or all or a substantial part of the assets of Borrower or any Guarantor are attached, seized, subjected to a writ or distress warrant or are levied upon unless the same is released or located within thirty (30) days;

(n) The commencement of any involuntary petition in bankruptcy against Borrower or any Guarantor or the institution against Borrower or any Guarantor of any reorganization, arrangement, composition, readjustment, dissolution, liquidation or similar proceedings under any present or future federal, state or other statute or law, or the appointment of a receiver, trustee or similar officer for all or any substantial part of the property of Borrower or any Guarantor, which shall remain undismissed or undischarged for a period of sixty (60) days;

(o) the dissolution, termination or merger of Borrower or any Guarantor;

(p) the occurrence of an "Event of Default" under the Note or any of the other Loan Documents;

(q) the filing of an affidavit (an "Affidavit") by the Contractor or a Subcontractor pursuant to §53.052 of the Texas Property Code which is not contested pursuant to Section 28 of the Deed of Trust;

(r) the failure by Borrower to deliver to Lender within one (1) business day of receipt thereof, notice of an Affidavit or claim received pursuant to any of §§53.055 - 53.058 inclusive of the Texas Property Code; or

(s) Opus West fails to maintain the financial covenants set forth in subsections 8.13-8.16 above.

ARTICLE 12

LENDER'S REMEDIES UPON EVENT OF DEFAULT

12.1 **Remedies Conferred upon Lender**. Upon the occurrence of any Event of Default, Lender, in addition to all remedies conferred upon Lender by law and by the terms of the Note, the Deed of Trust and the other Loan Documents, may pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any others:

(a) Take possession of the Premises and complete the construction and equipping of the Project and do anything required, necessary or advisable in Lender's sole judgment to fulfill the obligations of Borrower hereunder, including the rights to avail itself of or procure performance of existing Construction Contracts, to let any contracts with the same contractors, subcontractors or others and to employ watchmen to protect the Premises from injury. Without restricting the generality of the foregoing and for the purposes aforesaid, Borrower hereby appoints and constitutes Lender as Borrower's lawful attorney-in-fact with full power of substitution in the premises to perform the following actions:

(i) to complete construction of the Project in the name of Borrower;

(ii) to use unadvanced Loan Proceeds or to advance funds in excess of the face amount of the Note to complete the Project;

(iii) to make changes in the Plans and Specifications which shall be necessary to complete the Project;

(iv) to retain or employ new contractors, subcontractors, architects, engineers and inspectors;

(v) without inquiring into and without respect to the validity thereof, to pay, settle or compromise all existing bills and claims which may be liens, or to avoid such bills and claims becoming liens, against the Premises or any portion of the Premises or as may be necessary or desirable for the completion of the construction and equipping of the Project or for the clearance of title to the Premises;

(vi) to prosecute and defend actions or proceedings in connection with the Premises; and

(vii) to do any and every act which Borrower might do in its own behalf with respect to the Premises, it being understood and agreed that this power of attorney shall be a power coupled with an interest and cannot be revoked;

(b) Withhold further disbursement of the proceeds of the Loan and terminate any of its obligations to Borrower;

(c) Declare the Note to be due and payable forthwith, without notice, demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration, or any other notice or any other action (ALL OF WHICH BORROWER HEREBY EXPRESSLY WAIVES AND RELINQUISHES);

(d) In addition to any rights of setoff that Lender may have under applicable law, Lender, without notice of any kind to Borrower, may appropriate and apply to the payment of the Note or of any sums due under this Agreement any and all balances, deposits, credits, accounts, certificates of deposit, instruments or money of Borrower then or thereafter in the possession of Lender; and

(e) Exercise or pursue any other remedy or cause of action permitted at law or in equity or under this Agreement or any other Loan Document, including, but not limited to, foreclosure of the Deed of Trust and enforcement of all Loan Documents.

12.2 **Right of Lender to Make Advances to Cure Event of Defaults; Obligatory Advances**. If Borrower shall fail to perform any of its covenants or agreements herein or in any of the other Loan Documents contained, Lender may (but shall not be required to) perform any of such covenants and agreements, and any amounts expended by Lender in so doing, and any amounts expended by Lender pursuant to Section 12.1 hereof and any amounts advanced by Lender pursuant to this Agreement shall be deemed advanced by Lender under an obligation to do so regardless of the identity of the person or persons to whom said funds are disbursed. Loan Proceeds advanced by Lender in the exercise of its judgment that the same are needed to complete the Project to protect its security for the Loan are obligatory advances hereunder and shall constitute additional indebtedness payable on demand and evidenced and secured by the Loan Documents.

12.3 **Attorneys' Fees**. Borrower will pay Lender's reasonable attorneys' fees and costs in connection with the negotiation, preparation, administration and enforcement of this Agreement; without limiting the generality of the foregoing, if at any time or times hereafter Lender employs counsel for advice or other representation with respect to any matter concerning Borrower, this Agreement, the Premises or the Loan Documents or to protect, collect, lease, sell, take possession of, or liquidate any of the Premises, or to attempt to enforce or protect any security interest or lien or other right in any of the Premises or under any of the Loan Documents, or to enforce any rights of Lender or obligations of Borrower or any other person, firm or corporation which may be obligated to Lender by virtue of this Agreement or under any of the Loan Documents or any other agreement, instrument or document, heretofore or hereafter delivered to Lender in furtherance hereof, then in any such event, all of the attorneys' fees arising from such services, and any expenses, costs and charges relating thereto (including reasonable attorneys' fees and time charges of attorneys who may be employees of Lender or any affiliate of Lender), shall constitute an additional indebtedness owing by Borrower to Lender payable on demand and evidenced and secured by the Loan Documents.

12.4 **No Waiver**. No failure by Lender to exercise, or delay by Lender in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement and in the Loan Documents are cumulative and not exclusive of each other or of any right or remedy provided at law or in equity. No notice to or demand on Borrower in any case, in itself, shall entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of Lender to any other or further action in any circumstances without notice or demand.

12.5 **Default Rate**. From and after the date of any Event of Default until the date on which such Event of Default is cured, interest on funds outstanding hereunder shall accrue at the Default Rate and be payable on demand. The failure of Lender to charge interest at the Default Rate shall not be evidence of the absence of an Event of Default or waiver of an Event of Default by Lender.

ARTICLE 13

MISCELLANEOUS

13.1 **Time is of the Essence**. Borrower agrees that time is of the essence in all of their covenants under this Agreement.

13.2 **Lender's Determination of Facts**. Lender at all times shall be free to establish independently to its satisfaction and in its sole and absolute discretion the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Agreement.

13.3 **Prior Agreements**. This Agreement and the other Loan Documents, and any other documents or instruments executed pursuant thereto or contemplated thereby, shall represent the entire, integrated agreement between the parties hereto with respect to construction of the Project not yet in place, and shall supersede all prior negotiations, representations or agreements pertaining thereto, either oral or written. This Agreement and any provision hereof shall not be modified, amended, waived or discharged in any manner other than by a written amendment executed by all parties to this Agreement.

13.4 **Disclaimer by Lender**. Lender shall not be liable to any Contractor, Subcontractor, Architect, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with construction of the Project. Lender shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or against the Premises. Borrower is not or shall not be an agent of Lender for any purposes, and Lender is not a venture partner with Borrower in any manner whatsoever. Lender shall not be deemed to be in privity of contract with any Contractor, Subcontractor, Architect or provider of services on or to the Premises, nor shall any payment of funds directly to a Contractor, Subcontractor, Architect or provider of services be deemed to create any third party beneficiary status or recognition of same by Lender unless and until Lender expressly assumes such status in writing. No Contractor, Subcontractor, Architect, supplier, laborer, architect, engineer or other party shall be deemed to be a third party beneficiary of this Agreement or any of the Loan Documents. Approvals granted by Lender for any matters covered under this Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

13.5 **Indemnification**. **TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY AGREES TO PROTECT, INDEMNIFY, DEFEND AND SAVE HARMLESS, LENDER AND ITS DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY, EXPENSE OR DAMAGE OF ANY KIND OR NATURE AND FROM ANY SUITS, CLAIMS OR DEMANDS, INCLUDING LEGAL FEES AND EXPENSES ON ACCOUNT OF ANY MATTER OR THING OR ACTION OR FAILURE TO ACT BY LENDER, WHETHER OR NOT IN LITIGATION, ARISING OUT OF THIS AGREEMENT OR IN CONNECTION HEREWITH UNLESS SUCH SUIT, CLAIM OR DAMAGE IS CAUSED SOLELY BY ANY ACT, OMISSION OR WILLFUL MALFEASANCE OF LENDER, ITS DIRECTORS, OFFICERS, AGENTS AND AUTHORIZED EMPLOYEES. THIS INDEMNITY IS NOT INTENDED TO EXCUSE LENDER FROM PERFORMING HEREUNDER. THIS OBLIGATION ON THE PART OF BORROWER SHALL SURVIVE THE CLOSING OF THE LOAN, THE REPAYMENT THEREOF AND ANY CANCELLATION OF THIS AGREEMENT. BORROWER SHALL PAY, AND HOLD LENDER HARMLESS FROM, ANY AND ALL CLAIMS OF BROKERS, FINDERS OR AGENTS CLAIMING A RIGHT TO ANY FEES IN CONNECTION WITH ARRANGING THE FINANCING CONTEMPLATED HEREBY. LENDER HEREBY REPRESENTS THAT IT HAS NOT EMPLOYED A BROKER OR OTHER FINDER IN CONNECTION WITH THE LOAN. BORROWER REPRESENTS AND WARRANTS THAT NO BROKERAGE COMMISSIONS OR FINDER'S FEES ARE TO BE PAID IN CONNECTION WITH THE LOAN.**

13.6 **Erection of Sign**. Upon the request of Lender, Borrower shall, at its sole cost and expense, erect a sign on the Premises reasonably satisfactory to Lender in a conspicuous location at Borrower's reasonable discretion indicating that the construction financing and the permanent financing, if any, for the Project has been arranged through and supplied by Lender.

13.7 **Captions**. The captions and headings of various Articles and Sections of this Agreement and exhibits pertaining hereto are for convenience only and are not to be considered as defining or limiting in any way the scope or intent of the provisions hereof.

13.8 **Inconsistent Terms and Partial Invalidity**. In the event of any inconsistency among the terms hereof (including incorporated terms), or between such terms and the terms of any other Loan Document, Lender may elect which terms shall govern and prevail. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated by a court of competent jurisdiction to be invalid, the validity of the remainder of this Agreement shall be construed as if such invalid part were never included herein.

13.9 **Gender and Number**. Any word herein which is expressed in the masculine or neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural number shall be deemed, whenever appropriate in the context, to include the singular and the plural.

13.10 **Notices**. Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Lender: LaSalle Bank National Association
135 South LaSalle Street, Suite 1225
Chicago, Illinois 60603
Attn: Thomas G. Jeffery, Senior Vice President

and:	Schwartz Cooper Chartered Suite 2700 180 North LaSalle Street Chicago, Illinois 60601 Attn: Michael S. Kurtzon, Esq.
To Borrower:	Broadstone Galleria, L.P. c/o Opus West Corporation 2555 East Camelback Road, Suite 800 Phoenix, Arizona 85016 Attn: Senior Vice President Real Estate Finance & Sales
With copy to	Opus West Corporation 2555 East Camelback Road, Suite 800 Phoenix, Arizona 85016 Attn: Legal Department
With copy to	Greenberg Traurig, LLP 600 Three Galleria Tower 13155 Noel Road Dallas, TX 75240 Attn: Tina M. Ross, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

13.11 **Effect of Agreement**. The submission of this Agreement and the Loan Documents to Borrower for examination does not constitute a commitment or an offer by Lender to make a commitment to lend money to Borrower; this Agreement shall become effective only upon execution and delivery hereof by Lender to Borrower.

13.12 **Refinancing Right of First Refusal**. Borrower agrees that in the event the Loan is refinanced, Borrower shall permit Lender to offer a proposal for such refinancing upon Lender's then-current underwriting standards at the same time Borrower accepts proposals from other banks or credit sources. In the event that Borrower shall solicit refinancing proposals from any other bank or credit source, Borrower shall give Lender the right to offer to Borrower a proposal on similar or more favorable terms than other competing proposals within a reasonable time thereafter. Notwithstanding the foregoing, Borrower and Lender hereby acknowledge that Lender is under no obligation whatsoever to make any proposal to Borrower on any specific terms and conditions, and Borrower is under no obligation whatsoever to accept any refinancing proposal of Lender and may accept a refinancing proposal of any other bank or credit source in Borrower's sole and absolute discretion.

13.13 Governing Law. This Agreement has been negotiated, executed and delivered at Chicago, Illinois, and shall be construed and enforced in accordance with the laws of the State of Illinois, without reference to the choice of law or conflicts of law principles of the State.

13.14 Consent to Jurisdiction. TO INDUCE LENDER TO ACCEPT THE NOTE, BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE LOAN DOCUMENTS WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWER AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

13.15 Waiver of Defenses. OTHER THAN CLAIMS BASED UPON THE FAILURE OF LENDER TO ACT IN A COMMERCIALLY REASONABLE MANNER, BORROWER, ON BEHALF OF ITSELF AND ANY GUARANTOR, WAIVES EVERY PRESENT AND FUTURE DEFENSE (OTHER THAN THE DEFENSE OF PAYMENT IN FULL), CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH BORROWER MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY LENDER IN ENFORCING THIS AGREEMENT. PROVIDED THAT LENDER ACTS IN GOOD FAITH, THE BORROWER RATIFIES AND CONFIRMS WHATEVER LENDER MAY DO PURSUANT TO THE TERMS OF THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER.

13.16 Waiver of Jury Trial. BORROWER AND LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS AGREEMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS AGREEMENT OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS AGREEMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

IN WITNESS WHEREOF, Lender and Borrower have caused these presents to be executed the day and year first above written.

BORROWER HEREBY ACKNOWLEDGES AND AGREES THAT THIS CONSTRUCTION LOAN CONTAINS CERTAIN INDEMNIFICATION PROVISIONS (INCLUDING, WITHOUT LIMITATION, THOSE CONTAINED IN SECTION 13.5 HEREOF) WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF LENDER'S OWN NEGLIGENCE.

BORROWER

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation
Its: General Partner

By: Charles Vogel
Charles Vogel
Its: Vice President

LENDER:

LASALLE BANK NATIONAL ASSOCIATION

By: D B
Name: Don Brodrick
Title: FVP

EXHIBIT A

CONSTRUCTION LOAN AGREEMENT

LEGAL DESCRIPTION OF PREMISES

LOT 1, BLOCK 1 OF BROADSTONE GALLERIA ADDITION, AN ADDITION TO THE CITY OF FARMERS BRANCH, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED UNDER CLERK'S FILE NO. 2006-115591, MAP RECORDS, DALLAS COUNTY, TEXAS.

EXHIBIT B

CONSTRUCTION LOAN AGREEMENT

PERMITTED EXCEPTIONS

EXHIBIT C

PROJECT BUDGET

Budget	
Land & Related	$ 7,650,000
Construction Hard Costs	34,000,000
Construction Contingency	800,000
Architecture & Engineering	850,000
Municipal Fees (Permits)	150,000
Demolition	300,000
Lease-Up & Marketing Costs	840,600
Interest Reserve	***3,050,000***
Financing Fee & Related Costs	***447,000***
Closing Costs & Taxes	795,000
Retail TIs & LCs	1,203,000
Sub-Total	50,085,600
GC Fee - Alliance	1,478,000
Construction Mgmt. Fee - Opus	591,200
Development Fee - Alliance	929,300
Development Fee - Opus	929,300
Total Uses	$ 54,013,400

EXHIBIT D

ARCHITECT'S CERTIFICATE

Re: **Construction Loan in the principal amount of up to $45,850,000.00 ("Loan") by LaSalle Bank National Association ("Lender") to Broadstone Galleria, L.P. ("Borrower") for construction of an approximately ______________ square foot ____________ in ____________, Texas ("Project").**

The undersigned, ____ ("Architect"), has entered into that certain Agreement dated as of ______________, 20__ with Borrower ("Contract"). The undersigned hereby certifies to the Lender that pursuant to the Contract the undersigned has designed the Project and will perform certain other services, as provided in the Contract.

The undersigned, using the standard of professional care customary in the ____________ metropolitan area and the State of Texas, hereby certifies to Lender as follows:

(a) The firm has professional liability insurance in the amount of $________________;

(b) The following permits or governmental agency approvals will be required for the construction and occupancy of the building:

	Issuing Agency	Date Issued
Excavation Permit	______	______
Foundation Permit	______	______
Building Permit	______	______
EPA - Water	______	______
EPA - Sewer	______	______
EPA - Air	______	______
Sewer	_______________	______
Water Pollution Control	______	______
Toll Highway Permit	______	______
Cert. of Occupancy - Bldg.	______	______

(c) All permits, licenses and governmental approvals necessary for commencement of construction of the Project have been issued or, if the progress of construction does not yet require issuance thereof, Architect does not know of any reason why such permits, licenses or approvals may not be issued upon application therefore;

(d) In the aggregate, the Plans and Specifications prepared by Architect pursuant to the Contract ("Plans") contain all detail necessary to provide for construction of the Project;

(e) The Plans are in substantial compliance with all applicable building, zoning, environmental and land use laws, statutes, codes and regulations necessary to obtain a building permit;

(f) The Plans are complete in all material respects and contain all requisite detail for building the Project;

(g) Subject to <u>force majeure</u>, the undersigned knows of no reason why the Project will not be completed and ready to be occupied by ______________________________;

(h) To the best of our knowledge, adequate ingress and egress to the Project over public streets, rights of way and easements will be available after completion of construction of the Project in accordance with the Plans;

(i) To the best of our knowledge, storm and sanitary sewage disposal systems are or shall be available to service the Project and such systems do (or when constructed will) comply with all applicable environmental, pollution control and ecological laws, ordinances, rules and regulations, and in addition the applicable environmental protection agency, pollution control board and/or other governmental agencies having jurisdiction of the Project have issued their permits for the construction of the Project, or if the stage of construction of the Project does not allow for such issuance, then such permits shall be issued if and when such portion of the Project is constructed in accordance with the Plans;

(j) To the best of our knowledge, all utilities necessary for the operation of the Project are available at the boundaries of the Project. If utility services must be brought to site, please explain: ____
____
____.

The undersigned acknowledges that Lender is relying on this Certificate in agreeing to make the Loan.

Date: ________________, 20____

____

By:___________________________
Name:_________________________
Its:__________________________

Address:

____
____
____

EXHIBIT "E"

CONSTRUCTION LOAN AGREEMENT

ENGINEER'S CERTIFICATE

As an inducement to LASALLE BANK NATIONAL ASSOCIATION, a national banking association, its successors and assigns, to make a $__________ loan (the "Loan") to __________________________, a ______________________________ (the "Borrower") for the development and improvement of an __________ facility located in ______________ (the "Property"), the undersigned (the "Engineer") hereby represents that,

(a) Engineer prepared all of the civil engineer plans and specifications described on Exhibit "A" attached hereto (the "Plans and Specifications"), and Engineer is responsible therefor.

(b) The Plans and Specifications for ________________ have been prepared in accordance with the care and skill ordinarily exercised by a professional rendering the same or similar services at the same time and place the services were rendered (the "Standard of Care"), and subject to the Standard of Care, the Plans and Specifications for ________________ and submitted to ________________ for review and approval for the construction and the site improvements to be constructed at the Property for which the ________________ Plans and Specifications were prepared (the "Improvements"), and there have been no modifications thereof except as described on Exhibit "A".

(c) Engineer hereby certifies to Lender that:

(i) The Plans and Specifications for ________________ comply with a reasonable interpretation of applicable published governmental statutes, ordinances, codes and regulations;

(ii) The Improvements contemplated by the Plans and Specifications, if constructed in compliance therewith, will comply with all applicable governmental statutes, ordinances, codes and regulations;

(iii) Based on information and legal opinions furnished by the owner, the Plans and Specifications for ________________ have been prepared so that the construction of the Improvements will not encroach on any recorded or visible easement nor violate any covenant, condition or restriction of record relating to the Property;

(iv) Exhibit "B" attached hereto is a list of all certificates, permits, licenses, consents and authorizations required for the construction of the Improvements that have been issued (collectively, the "Licenses and Permits").

(v) The Licenses and Permits listed in Exhibit "B" have been obtained and are in full force and effect and to the undersigned's knowledge, there are no impediments to obtaining the licenses and permits and the Licenses and Permits.

Date: __________________, 20__

__________________________, a _________
[corporation / limited partnership / limited liability company]

By: ____________________________
Name: ____________________________
Title: ____________________________

Address:

____
____
____

EXHIBIT "F"

CONSTRUCTION LOAN AGREEMENT

REQUEST FOR ADVANCE

LaSalle Bank National Association
135 South LaSalle Street, Suite 1225
Chicago, Illinois 60603
Attention: Construction Loan Administration

PROJECT NAME: Broadstone Galleria (the "Project")
BORROWER: Broadstone Galleria, L.P.(the "Borrower")
DRAW NO: __________

Reference is hereby made to that certain Construction Loan Agreement dated as of June 30, 2006 (the "Loan Agreement"), executed by and between the Borrower and LaSalle Bank National Association (the "Lender"). Capitalized words and phrases used herein without definition shall have the respective meanings ascribed to such words and phrases in the Loan Agreement.

1. Pursuant to the Loan Agreement, the Borrower hereby requests a Construction Disbursement in the amount of __________________. The Borrower acknowledges that the approval of this Construction Disbursement by the Bank is subject to all of the terms and conditions precedent for the disbursement of Loan proceeds, including, without limitation, inspection of the Project, verification of the matters set forth in this Request for Advance and the available of Loan proceeds. The Borrower acknowledges that that no funds shall be disbursed by the Bank in connection with any portion of the Project for which a payoff amount has been quoted by the Bank to a title company.

2. The Borrower agrees to provide, if requested by the Bank, a Vendor Payee List (Sworn Owner's Statement), showing the name and the amount currently due each party to whom the Borrower is obligated for labor, material and/or services supplied. This information would be provided in support of the disbursements requested in this Request for Advance.

3. The Borrower hereby represents, warrants and covenants with the Bank as follows:

(a) all conditions precedent to the disbursement have been satisfied, including, without limitation, performance of all of the then pending obligations of Borrower under the Loan Agreement and the other Loan Documents;

(b) all representations and warranties made by the Borrower to the Bank in the Loan Agreement and otherwise in connection with the Loan continue to be accurate;

(c) no Event of Default has occurred under the Loan Agreement or under any Loan Document, and no event, circumstance or condition has occurred or exists which, with the passage of time or the giving of notice, would constitute a Event of Default under the Loan Agreement or under the other Loan Documents;

(d) the Borrower has received no notice and has no knowledge of any litigation, proceedings (including proceedings under Title 11 of the United States Code), liens or claims of lien, either filed or threatened against the Borrower, any Guarantor, the Project or the Contractor, the Premises, except the liens of the Lender and those which are specifically identified in writing to the Bank;

(e) no event, circumstance or condition exists or has occurred which could delay or prevent the completion of the Project by the Completion Date;

(f) all Construction Disbursements advanced by the Bank to the Borrower for labor, materials and/or services furnished prior to this draw request have been paid to the parties entitled to such payment, and all Loan proceeds so disbursed have been used for the purposes set forth in the Loan Agreement;

(g) all work and materials furnished to date for the Project conform with the Plans and Specifications, and the Borrower has approved all work and materials for which a payment is now due and for which this Construction Disbursement is being requested;

(h) the total amount of the requested Construction Disbursement represents the actual amount payable to the Contractor and/or Subcontractors who have performed work on the Project, and all of the Construction Disbursement requested hereby will be used as payment for the work on the Project described on the attached documentation and for no other reason;

(i) all change orders or changes to the Plans and Specifications or the Schedule of Values have been submitted to and approved by Bank; and

(j) the Loan is In Balance (including, without limitation, any change orders approved by the Bank).

4. Disbursement of the Loan proceeds requested hereby may be subject to (a) the receipt by the Bank of a certificate from the issuing Title Company stating that no claims have been filed of record which adversely affects the title, and (b) approval from the Bank's Inspecting Architect/Consultant.

5. The amount of change orders in dispute between the Borrower and the General Contractor (or any Subcontractor) is $________________.

6. The Borrower hereby agrees and acknowledges that this affidavit is made for the purpose of inducing the Bank to make a Construction Disbursement to the Borrower and, the Bank is relying upon the accuracy of such matters in making such Construction Disbursement,

and the Borrower certifies that the statements made herein and in any documents submitted herewith are true and correct.

7. The Borrower requests that this draw be funded and that the funds be disbursed into the Construction Escrow No. ____________ at ______________________ or deposited to the following account number ____________ at ___________________.

IN WITNESS WHEREOF, the Borrower has executed this Request for Advance as of _________________, 200__.

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation
Its: General Partner

By: ____________________
Its: ____________________

ATTACHMENT 2

1285987684

PROMISSORY NOTE

$6,375,000.00
Chicago, Illinois

LBNA / Commercial

No. ____________
Date: December 14, 2005
Due Date: June 14, 2006

1. AGREEMENT TO PAY. For value received, BROADSTONE GALLERIA, L.P., a Delaware limited partnership (the "Borrower") hereby promises to pay to the order of LASALLE BANK NATIONAL ASSOCIATION, a national banking association, its successors and assigns (the "Lender"), the principal sum of SIX MILLION THREE HUNDRED SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS ($6,375,000.00) (the "Loan"), or so much of the Loan as may be advanced under and pursuant to that certain Holdback Agreement dated as of even date herewith executed by and between the Borrower and the Lender (the "Loan Agreement"), on or before June 14, 2006 (the "Maturity Date"), at the place and in the manner hereinafter provided, together with interest thereon at the rate or rates described below, and any and all other amounts which may be due and payable hereunder or under any of the Loan Documents (as hereinafter defined) from time to time.

2. INTEREST RATE.

2.1 Interest Prior to Default.

(a) Interest shall accrue on the principal balance of this Note outstanding from the date hereof through the Maturity Date at the Borrower's option from time to time of (i) a floating per annum rate of interest (the "Floating Rate") equal to the Prime Rate (as hereinafter defined), or (ii) a per annum rate of interest (the "LIBOR Rate") equal to LIBOR (as hereinafter defined) for the relevant Interest Period (as hereinafter defined), plus two and twenty five one hundredths percent (2.25%) (the "Applicable Margin"), such LIBOR Rate to remain fixed for such Interest Period. Changes in the Floating Rate to be charged hereunder based on the Prime Rate shall take effect immediately upon the occurrence of any change in the Prime Rate. Any portion of the principal amount of this Note bearing interest at the Floating Rate is referred to herein as a "Prime Loan". Any portion of the principal amount of this Note bearing interest at the LIBOR Rate is referred to herein as a "LIBOR Loan".

(b) A request by the Borrower for a Prime Loan must be received by the Lender in writing no later than 2:00 p.m. Chicago, Illinois time, on any day other than a Saturday, Sunday or a legal holiday on which banks are authorized or required to be closed for the conduct of commercial banking business in Chicago, Illinois (a "Business Day"). As used herein, "Prime Rate" shall mean the floating per annum rate of interest most recently announced by the Lender at Chicago, Illinois as its prime or base rate. A certificate made by an officer of the Lender stating the Prime Rate in effect on any given day, for the purposes hereof, shall be conclusive evidence of the Prime Rate in effect on such day. The Prime Rate is a base reference rate of interest adopted by the Lender as a general benchmark from which the Lender determines the floating interest rates chargeable on various loans to borrowers with varying degrees of creditworthiness and the Borrower acknowledges and agrees that the Lender has made no representations whatsoever that the Prime Rate is the interest rate actually offered by the Lender to borrowers of any particular creditworthiness.

(c) LIBOR Rate. The designation of a LIBOR Loan by the Borrower is subject to the following requirements:

(i) A request for a LIBOR Loan (a "LIBOR Loan Request") must be received by the Lender no later than 2:00 p.m. Chicago, Illinois time two Business Days prior to the first day of the Interest Period on which such LIBOR Loan shall be advanced, shall be irrevocable, and shall state the initial Interest Period and amount of such LIBOR Loan. Each LIBOR Loan will be in an amount not less than Five Hundred Thousand and 00/100 Dollars ($500,000.00) or a higher integral multiple of One Hundred Thousand and 00/100 Dollars ($100,000.00). No more than five (5) separate LIBOR Loans may be outstanding at any time. A request for a LIBOR Loan received by the Lender after 2:00 p.m. Chicago, Illinois on any Business Day time will be processed and funded by the Lender on the third Business Day thereafter.

(ii) If pursuant to the LIBOR Loan Request, the initial Interest Period of any LIBOR Loan commences on any day other than the first Business Day of any month, then the initial Interest Period of such LIBOR Loan shall end on the first day of the following calendar month, notwithstanding the Interest Period specified in the LIBOR Loan Request, and the LIBOR Rate for such LIBOR Loan shall be equal to LIBOR for an interest period equal to the length of such partial month, plus the Applicable Margin. Thereafter, each LIBOR Loan shall automatically renew (a "LIBOR Rollover") for the Interest Period specified in the LIBOR Loan Request at the then current LIBOR Rate plus the Applicable Margin unless the Borrower, in a subsequent LIBOR Loan Request received by the Lender no later than 2:00 p.m. Chicago, Illinois time on the second (2nd) Business Day before the expiration of the existing Interest Period, shall elect a different Interest Period or the conversion of all or a portion of the LIBOR Loan to a Prime Loan. The Borrower may not elect a LIBOR Rate, and an Interest Period for a LIBOR Loan shall not automatically renew, with respect to any principal amount which is scheduled to be repaid before the last day of the applicable Interest Period, and any such amounts shall bear interest at the Floating Rate, until repaid.

(iii) "LIBOR" shall mean a rate of interest equal to (A) the per annum rate of interest at which United States dollar deposits in an amount comparable to the amount of the relevant LIBOR Loan and for a period equal to the relevant Interest Period are offered in the London Interbank Eurodollar market at 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period (or three Business Days prior to the commencement of such Interest Period if banks in London, England were not open and dealing in offshore United States dollars on such second preceding Business Day), as displayed in the

Bloomberg Financial Markets system (or other authoritative source selected by the Lender in its sole discretion), divided by (B) a number determined by subtracting from 1.00 the then stated maximum reserve percentage for determining reserves to be maintained by member banks of the Federal Reserve System for Eurocurrency funding or liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D), such rate to remain fixed for such Interest Period, or as LIBOR is otherwise determined by the Lender in its sole and absolute discretion. The Lender's determination of LIBOR shall be conclusive, absent manifest error.

(iv) "Interest Period" shall mean, with regard to any LIBOR Loan, successive one, two or three month periods, as selected by the Borrower in its LIBOR Loan Request; provided, however, that: (A) each Interest Period occurring after the initial Interest Period of any LIBOR Loan shall commence on the day on which the preceding Interest Period for such LIBOR Loan expires; (B) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day; (C) whenever the first day of any Interest Period occurs on a date for which there is no numerically corresponding date in the month in which such Interest Period terminates, such Interest Period shall end on the last day of such month, unless such day is not a Business Day, in which case the Interest Period shall terminate on the first Business Day of the following month, provided, however, that so long as the LIBOR Rollover remains in effect, all subsequent Interest Periods shall terminate on the date of the month numerically corresponding to the date on which the initial Interest Period commenced; and (D) the final Interest Period for any LIBOR Loan must be such that its expiration occurs on or before the Maturity Date. If at any time an Interest Period expires less than one month before the Maturity Date, such LIBOR Loan shall automatically convert to a Prime Loan on the last day of the then existing Interest Period, without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower.

(v) Notwithstanding anything to the contrary contained herein, the principal balance of any LIBOR Loan may not be prepaid in whole or in part at any time. If, for any reason, a LIBOR Loan is paid prior to the last Business Day of any Interest Period, whether voluntary, involuntary, by reason of acceleration or otherwise, each such prepayment of a LIBOR Loan will be accompanied by the amount of accrued interest on the amount prepaid and any and all costs, expenses, penalties and charges incurred by the Lender as a result of the early termination or breakage of a LIBOR Loan, plus the amount, if any, by which (A) the additional interest which would have been payable during the Interest Period on the LIBOR Loan prepaid had it not been prepaid, exceeds (B) the interest which would have been recoverable by the Lender by placing the amount prepaid on deposit in the domestic certificate of deposit market, the eurodollar deposit market, or other appropriate money market selected by the Lender, for a period starting on the date on which it was prepaid and ending on the last day of the Interest Period for such

LIBOR Loan (collectively, the "Make Whole Costs"). The amount of any such loss or expense payable by the Borrower to the Lender under this section shall be determined in the Lender's sole discretion based upon the assumption that the Lender funded its loan commitment for LIBOR Loans in the London Interbank Eurodollar market and using any reasonable attribution or averaging methods which the Lender deems appropriate and practical, provided, however, that the Lender is not obligated to accept a deposit in the London Interbank Eurodollar market in order to charge interest on a LIBOR Loan at the LIBOR Rate.

(vi) If the Lender determines in good faith (which determination shall be conclusive, absent manifest error) prior to the commencement of any Interest Period that (A) the making or maintenance of any LIBOR Loan would violate any applicable law, rule, regulation or directive, whether or not having the force of law, (B) United States dollar deposits in the principal amount, and for periods equal to the Interest Period, of any LIBOR Loan are not available in the London Interbank Eurodollar market in the ordinary course of business, (C) by reason of circumstances affecting the London Interbank Eurodollar market, adequate and fair means do not exist for ascertaining the LIBOR Rate to be applicable to the relevant LIBOR Loan, (D) the LIBOR Rate does not accurately reflect the cost to the Lender of a LIBOR Loan, or (E) an Event of Default (as hereinafter defined) has occurred and is continuing or any event or circumstance exists which, with the giving of notice or passage of time, would constitute an Event of Default, the Lender shall promptly notify the Borrower thereof and, so long as any of the foregoing conditions continue, the Lender will have no obligation to accept an election by the Borrower for a LIBOR Loan, and each existing LIBOR Loan, at the Borrower's option, shall be (1) converted to a Prime Loan on the last Business Day of the then existing Interest Period, or (2) due and payable on the last Business Day of the then existing Interest Period, without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower.

(vii) If, after the date hereof, a Regulatory Change (as hereinafter defined) shall, in the reasonable determination of the Lender, make it unlawful for the Lender to make or maintain any LIBOR Loans, the Lender will have no obligation to accept an election by the Borrower for a LIBOR Loan. In addition, at the Borrower's option, each existing LIBOR Loan shall be immediately (A) converted to a Prime Loan on the last Business Day of the then existing Interest Period or on such earlier date as required by law, or (B) due and payable on the last Business Day of the then existing Interest Period or on such earlier date as required by law, all without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower. As used herein, "Regulatory Change" shall mean the introduction of, or any change in any applicable law, treaty, rule, regulation or guideline or in the interpretation or administration thereof by any governmental authority or any central bank or other fiscal, monetary or other authority having jurisdiction over the Lender or its lending office.

(viii) If any Regulatory Change (whether or not having the force of law) shall (a) impose, modify or deem applicable any assessment, reserve, special deposit or similar requirement against assets held by, or deposits in or for the account of, or loans by, or any other acquisition of funds or disbursements by, the Lender; (b) subject the Lender or any LIBOR Loan to any tax, duty, charge, stamp tax or fee, or change the basis of taxation of payments to the Lender of principal or interest due from the Borrower hereunder (other than a change in the taxation of the overall net income of the Lender); or (c) impose on the Lender any other condition regarding any LIBOR Loan or the Lenders' funding thereof, and the Lender shall determine (which determination shall be conclusive, absent manifest error) that the result of the foregoing is to actually increase the cost to the Lender of making or maintaining any LIBOR Loans or to reduce the amount of principal or interest received by the Lender hereunder on any LIBOR Loan, then the Borrower shall pay to the Lender, on demand, such additional amounts as the Lender shall from time to time determine are sufficient to compensate and indemnify the Lender for such increased costs or reduced amounts (the "LIBOR Indemnification Costs").

2.2 Interest After Default. From and after the Maturity Date or upon the occurrence and during the continuance of an Event of Default, interest shall accrue on the unpaid principal balance during any such period at an annual rate (the "Default Rate") equal to five percent (5.00%) plus the Floating Rate; provided, however, in no event shall the Default Rate exceed the maximum rate permitted by law. The interest accruing under this section shall be immediately due and payable by the Borrower to the holder of this Note upon demand and shall be additional indebtedness evidenced by this Note.

2.3 Interest Calculation. Interest on this Note shall be calculated on the basis of a 360 day year and the actual number of days elapsed in any portion of a month in which interest is due. If any payment to be made by the Borrower hereunder shall become due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

3. INTEREST RESERVE. The sum of Two Hundred Twenty Five Thousand and 00/100 Dollars ($225,000.00) of the principal of this Note shall not be disbursed directly by the Lender to the Borrower, but shall be held back by the Lender (the "Interest Reserve"). The Interest Reserve shall only be disbursed by the Lender for the purpose of funding accrued and unpaid interest on this Note as provided in Section 4 hereof, shall not accrue interest until actually disbursed to or for the benefit of the Borrower and, when so disbursed, shall be considered outstanding principal of this Note. Notwithstanding the foregoing, the Lender shall have no obligation to disburse all or any part of the Loan Reserve upon the occurrence and continuation of an Event of Default. Upon the occurrence of an Event of Default, the Lender may use and apply any of the Loan Reserve to cure such Event of Default, as a prepayment of the outstanding principal amount of this Note, or for the funding of accrued and unpaid interest on this Note.

4. PAYMENT TERMS.

4.1 Principal and Interest. Payments of principal and interest due under this Note, if not sooner declared to be due in accordance with the provisions hereof, shall be made as follows:

(a) Commencing on January 1, 2006, and continuing on the first day of each month thereafter through and including the month in which the Maturity Date occurs, all accrued and unpaid interest on the principal balance of this Note outstanding from time to time shall be due and payable, and which amounts shall be (i) disbursed directly by the Lender from the Loan proceeds up to the amount of the Loan Reserve and which, when advanced, shall constitute outstanding principal under this Note, and (ii) thereafter paid directly by the Borrower from sources other than the proceeds of this Loan. Interest accrued on any LIBOR Loan as of the date of termination, breakage or other disposition shall be due and payable in full on the date of such termination, breakage or disposition.

(b) The unpaid principal balance of this Note, if not sooner paid or declared to be due in accordance with the terms hereof, together with all accrued and unpaid interest thereon and any other amounts due and payable hereunder or under any of the Loan Documents shall be due and payable in full on the Maturity Date.

4.2 Application of Payments. Prior to the occurrence of an Event of Default, all payments and prepayments on account of the indebtedness evidenced by this Note shall be applied as follows: (a) first, to fees, expenses, costs and other similar amounts then due and payable to the Lender, including, without limitation any prepayment premium, exit fee or late charges due hereunder, (b) second, to accrued and unpaid interest on the principal balance of this Note, (c) third, to the payment of principal due in the month in which the payment or prepayment is made, (d) fourth, to any escrows, impounds or other amounts which may then be due and payable under the Loan Documents, (e) fifth, to any other amounts then due the Lender hereunder or under any of the Loan Documents, and (f) last, to the unpaid principal balance of this Note in the inverse order of maturity. Any prepayment on account of the indebtedness evidenced by this Note shall not extend or postpone the due date or reduce the amount of any subsequent monthly payment of principal and interest due hereunder. After an Event of Default has occurred and is continuing, payments may be applied by the Lender to amounts owed hereunder and under the Loan Documents in such order as the Lender shall determine, in its sole discretion.

4.3 Method of Payments. All payments of principal and interest hereunder shall be paid by automatic debit, wire transfer, check or in coin or currency which, at the time or times of payment, is the legal tender for public and private debts in the United States of America and shall be made at such place as the Lender or the legal holder or holders of this Note may from time to time appoint in the payment invoice or otherwise in writing, and in the absence of such appointment, then at the offices of the Lender at 135 South La Salle Street, Suite 1225, Chicago, Illinois 60603. Payment made by check shall be deemed paid on the date the Lender receives such check; provided, however, that if such check is subsequently returned to the Lender unpaid due to insufficient funds or otherwise, the payment shall not be deemed to have been made and shall continue to bear interest until collected. Notwithstanding the foregoing, the final payment due under this Note must be made by wire transfer or other immediately available funds. Interest, principal payments and any fees and expenses owed the Lender from time to time will be deducted by the Lender automatically on the due date from the Borrower's account with the Lender, as designated in writing by the Borrower. The Borrower will maintain sufficient funds in the account on the dates the Lender enters debits authorized by this Note. If there are insufficient funds in the account on the date the Lender enters any debit authorized by this Note, the debit will be reversed. The Borrower may terminate this direct debt arrangement at any time by sending written notice to the Lender at the address specified above.

4.4 Late Charge. If any payment of interest or principal due hereunder is not made within five days after such payment is due in accordance with the terms hereof, then, in addition to the payment of the amount so due, the Borrower shall pay to the Lender a "late charge" of five cents for each whole dollar so overdue to defray part of the cost of collection and handling such late payment. The Borrower agrees that the damages to be sustained by the holder hereof for the detriment caused by any late payment are extremely difficult and impractical to ascertain, and that the amount of five cents for each one dollar due is a reasonable estimate of such damages, does not constitute interest, and is not a penalty.

4.5 Principal Prepayments. The portion of this Note bearing interest at the Floating Rate may be prepaid, either in whole or in part, without penalty or premium, at any time and from time to time upon fourteen (14) days prior notice to the Lender. The portion of this Note bearing interest at the LIBOR Rate may be prepaid only on the last day of an Interest Period; provided, however, that the Borrower may prepay a LIBOR Loan prior to such day so long as such prepayment is accompanied by a simultaneous payment of the Make Whole Costs described in Section 2.1(c)(v) above, plus accrued interest on the LIBOR Loan being prepaid through the date of prepayment.

4.6 Loan Fees. In consideration of the Lender's agreement to make the Loan, the Borrower shall pay to the Lender a non-refundable fee in the amount of Fifteen Thousand and 00/100 Dollars ($15,000.00), which shall be due and payable in full as a condition precedent to the disbursement of proceeds under this Note.

5. SECURITY. This Note is secured by that certain: (a) Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as the date hereof, executed by the Borrower to and for the benefit of the Lender (the "Deed of Trust"), creating a first mortgage lien on certain real property (the "Premises") legally described in Exhibit "A" attached to the Deed of Trust; (b) Assignment of Rents and Leases dated the date hereof, executed by the Borrower to and for the benefit of the Lender (the "Assignment of Rents"); (c) Guaranty of Payment dated as of even date herewith, executed by Opus West Corporation, a Minnesota corporation (the "Guarantor") to and for the benefit of the Lender (the "Guaranty"); and (d) Environmental Indemnity Agreement dated of even date herewith, jointly and severally executed by the Borrower and the Guarantor to and for the benefit of the Lender (the "Indemnity Agreement"; the Loan Agreement, the Deed of Trust, the Assignment of Rents, the Guaranty, the Indemnity Agreement and any and all other documents now or hereafter given to evidence or secure payment of this Note or delivered to induce the Lender to disburse the proceeds of the Loan, as such documents may hereafter be amended, restated or replaced from time to time, are

hereinafter collectively referred to as the "Loan Documents"). Reference is hereby made to the Loan Documents (which are incorporated herein by reference as fully and with the same effect as if set forth herein at length) for a statement of the covenants and agreements contained therein, a statement of the rights, remedies, and security afforded thereby, and all matters therein contained.

6. EVENTS OF DEFAULT. The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Note:

(a) the failure by the Borrower to pay (i) any installment of principal or interest payable pursuant to this within five (5) days after the date when due, or (ii) any other amount payable to the Lender under this Note, the Deed of Trust or any of the other Loan Documents within five (5) days after the date when any such payment is due in accordance with the terms hereof or thereof; or

(b) the occurrence of any "Event of Default" under the Loan Agreement, Deed of Trust or any of the other Loan Documents.

7. REMEDIES. At the election of the holder hereof, and without notice, the principal balance remaining unpaid under this Note, and all unpaid interest accrued thereon and any other amounts due hereunder, shall be and become immediately due and payable in full upon the occurrence of any Event of Default. Failure to exercise this option shall not constitute a waiver of the right to exercise same in the event of any subsequent Event of Default. No holder hereof shall, by any act of omission or commission, be deemed to waive any of its rights, remedies or powers hereunder or otherwise unless such waiver is in writing and signed by the holder hereof, and then only to the extent specifically set forth therein. The rights, remedies and powers of the holder hereof, as provided in this Note, the Deed of Trust and in all of the other Loan Documents are cumulative and concurrent, and may be pursued singly, successively or together against the Borrower, any Guarantor hereof, the Premises and any other security given at any time to secure the repayment hereof, all at the sole discretion of the holder hereof. If any suit or action is instituted or attorneys are employed to collect this Note or any part hereof, the Borrower promises and agrees to pay all costs of collection, including reasonable attorneys' fees and court costs.

8. COVENANTS AND WAIVERS. The Borrower and all others who now or may at any time become liable for all or any part of the obligations evidenced hereby, expressly agree hereby to be jointly and severally bound, and jointly and severally: (i) waive and renounce any and all homestead, redemption and exemption rights and the benefit of all valuation and appraisement privileges against the indebtedness evidenced by this Note or by any extension or renewal hereof; (ii) waive presentment and demand for payment, notices of nonpayment and of dishonor, protest of dishonor, and notice of protest; (iii) except as expressly provided in the Loan Documents, waive any and all notices in connection with the delivery and acceptance hereof and all other notices in connection with the performance, default, or enforcement of the payment hereof or hereunder; (iv) waive any and all lack of diligence and delays in the enforcement of the payment hereof; (v) agree that the liability of the Borrower and each guarantor, endorser or obligor shall be unconditional and without regard to the liability of any other person or entity for the payment hereof, and shall not in any manner be affected by any indulgence or forbearance

granted or consented to by the Lender to any of them with respect hereto; (vi) consent to any and all extensions of time, renewals, waivers, or modifications that may be granted by the Lender with respect to the payment or other provisions hereof, and to the release of any security at any time given for the payment hereof, or any part thereof, with or without substitution, and to the release of any person or entity liable for the payment hereof; and (vii) consent to the addition of any and all other makers, endorsers, guarantors, and other obligors for the payment hereof, and to the acceptance of any and all other security for the payment hereof, and agree that the addition of any such makers, endorsers, guarantors or other obligors, or security shall not affect the liability of the Borrower, any guarantor and all others now liable for all or any part of the obligations evidenced hereby. This provision is a material inducement for the Lender making the Loan to the Borrower.

9. GENERAL AGREEMENTS.

9.1 Business Purpose Loan. The Loan is a business loan which comes within the purview of Section 205/4, paragraph (1)(c) of Chapter 815 of the Illinois Compiled Statutes, as amended. The Borrower agrees that the Loan evidenced by this Note is an exempted transaction under the Truth In Lending Act, 15 U.S.C., §1601, et seq.

9.2 Time. Time is of the essence hereof.

9.3 Governing Law. This Note is governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the statutes, laws and decisions of the State of Illinois, without regard to its conflict of laws provisions.

9.4 Amendments. This Note may not be changed or amended orally but only by an instrument in writing signed by the party against whom enforcement of the change or amendment is sought.

9.5 No Joint Venture. The Lender shall not be construed for any purpose to be a partner, joint venturer, agent or associate of the Borrower or of any lessee, operator, concessionaire or licensee of the Borrower in the conduct of its business, and by the execution of this Note, the Borrower agrees to indemnify, defend, and hold the Lender harmless from and against any and all damages, costs, expenses and liability that may be incurred by the Lender as a result of a claim that the Lender is such partner, joint venturer, agent or associate.

9.6 Disbursement. This Note has been made and delivered at Chicago, Illinois and all funds disbursed to or for the benefit of the Borrower will be disbursed in Chicago, Illinois.

9.7 Joint and Several Obligations. If this Note is executed by more than one party, the obligations and liabilities of each Borrower under this Note shall be joint and several and shall be binding upon and enforceable against each Borrower and their respective successors and assigns. This Note shall inure to the benefit of and may be enforced by the Lender and its successors and assigns.

9.8 Severable Loan Provisions. If any provision of this Note is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Borrower and the Lender shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

9.9 Interest Limitation. If the interest provisions herein or in any of the Loan Documents shall result, at any time during the Loan, in an effective rate of interest which, for any month, exceeds the limit of usury or other laws applicable to the Loan, all sums in excess of those lawfully collectible as interest of the period in question shall, without further agreement or notice between or by any party hereto, be applied upon principal immediately upon receipt of such monies by the Lender, with the same force and effect as though the payer has specifically designated such extra sums to be so applied to principal and the Lender had agreed to accept such extra payment(s) as a premium-free prepayment. Notwithstanding the foregoing, however, the Lender may at any time and from time to time elect by notice in writing to the Borrower to reduce or limit the collection to such sums which, when added to the said first-stated interest, shall not result in any payments toward principal in accordance with the requirements of the preceding sentence. In no event shall any agreed to or actual exaction as consideration for this Loan transcend the limits imposed or provided by the law applicable to this transaction or the makers hereof in the jurisdiction in which the Premises are located for the use or detention of money or for forbearance in seeking its collection.

9.10 Assignability. The Lender may at any time assign its rights in this Note and the Loan Documents, or any part thereof and transfer its rights in any or all of the collateral, and the Lender thereafter shall be relieved from all liability with respect to such collateral. In addition, the Lender may at any time sell one or more participations in the Note. The Borrower may not assign its interest in this Note, or any other agreement with the Lender or any portion thereof, either voluntarily or by operation of law, without the prior written consent of the Lender

10. NOTICES. All notices required under this Note will be in writing and will be transmitted in the manner and to the addresses required by the Loan Agreement or to such other addresses as the Lender and the Borrower may specify from time to time in writing.

11. CONSENT TO JURISDICTION. TO INDUCE THE LENDER TO ACCEPT THIS NOTE, THE BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO THE LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS NOTE WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. THE BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON THE BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE BORROWER AT THE ADDRESS STATED IN THE DEED OF TRUST AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

12. WAIVER OF JURY TRIAL. THE BORROWER AND THE LENDER (BY ACCEPTANCE OF THIS NOTE), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS NOTE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS NOTE OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS NOTE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST THE LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

13. WAIVER OF DEFENSES. OTHER THAN CLAIMS BASED UPON THE FAILURE OF THE LENDER TO ACT IN A COMMERCIALLY REASONABLE MANNER, THE BORROWER WAIVES EVERY PRESENT AND FUTURE DEFENSE (OTHER THAN THE DEFENSE OF PAYMENT IN FULL), CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH THE BORROWER MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY THE LENDER IN ENFORCING THIS NOTE OR ANY OF THE LOAN DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER GRANTING ANY FINANCIAL ACCOMMODATION TO THE BORROWER.

14. CUSTOMER IDENTIFICATION - USA PATRIOT ACT NOTICE; OFAC AND BANK SECRECY ACT. The Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and the Lender's policies and practices, the Lender is required to obtain, verify and record certain information and documentation that identifies the Borrower, which information includes the name and address of the Borrower and such other information that will allow the Lender to identify the Borrower in accordance with the Act. In addition, the Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls the Borrower or any subsidiary of the Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

15. EXPENSES AND INDEMNIFICATION. The Borrower shall pay all costs and expenses incurred by the Lender in connection with the preparation of this Note and the Loan Documents, including, without limitation, reasonable attorneys' fees and time charges of attorneys who may be employees of the Lender or any affiliate or parent of the Lender. The Borrower shall pay any and all stamp and other taxes, UCC search fees, filing fees and other costs and expenses in connection with the execution and delivery of this Note and the other instruments and documents to be delivered hereunder, and agrees to save the Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or

omission to pay such costs and expenses. The Borrower hereby authorizes the Bank to charge any account of the Borrower with the Bank for all sums due under this section. The Borrower also agrees to defend (with counsel satisfactory to the Lender), protect, indemnify and hold harmless the Lender, any parent corporation, affiliated corporation or subsidiary of the Lender, and each of their respective officers, directors, employees, attorneys and agents (each an "Indemnified Party") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and distributions of any kind or nature (including, without limitation, the disbursements and the reasonable fees of counsel for each Indemnified Party thereto, which shall also include, without limitation, attorneys' fees and time charges of attorneys who may be employees of the Lender, any parent corporation or affiliated corporation of the Lender), which may be imposed on, incurred by, or asserted against, any Indemnified Party (whether direct, indirect or consequential and whether based on any federal, state or local laws or regulations, including, without limitation, securities, environmental laws and commercial laws and regulations, under common law or in equity, or based on contract or otherwise) in any manner relating to or arising out of this Note or any of the Loan Documents, or any act, event or transaction related or attendant thereto, the preparation, execution and delivery of this Note and the Loan Documents, the making or issuance and management of the Loan, the use or intended use of the proceeds of this Note and the enforcement of the Lender's rights and remedies under this Note, the Loan Documents any other instruments and documents delivered hereunder, or under any other agreement between the Borrower and the Lender; provided, however, that the Borrower shall not have any obligations hereunder to any Indemnified Party with respect to matters caused by or resulting from the willful misconduct or gross negligence of such Indemnified Party. To the extent that the undertaking to indemnify set forth in the preceding sentence may be unenforceable because it violates any law or public policy, the Borrower shall satisfy such undertaking to the maximum extent permitted by applicable law. Any liability, obligation, loss, damage, penalty, cost or expense covered by this indemnity shall be paid to each Indemnified Party on demand, and failing prompt payment, together with interest thereon at the Default Rate from the date incurred by each Indemnified Party until paid by the Borrower, shall be added to the obligations of the Borrower evidenced by this Note and secured by the collateral securing this Note. The provisions of this section shall survive the satisfaction and payment of this Note.

NO ORAL AGREEMENTS. THIS WRITTEN AGREEMENT AND THE OTHER CREDIT DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the Borrower has executed and delivered this Promissory Note as of the day and year first above written.

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation
Its: General Partner

By: ______________________
Name: Thomas W. Roberts
Title: President

ATTACHMENT 3

2105-00232 LBW

DT 200503628173
52 PGS

This document prepared by
and after recordation return to:

Schwartz, Cooper, Greenberger
& Krauss, Chartered
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
Attn: Michael D. Rothstein, Esq.

COMMERCIAL DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

by

BROADSTONE GALLERIA, L.P.,
a Delaware limited partnership

to

WILLIAM D. CLEVELAND, an individual

for the benefit of

LASALLE BANK NATIONAL ASSOCIATION,
a national banking association

THIS DEED OF TRUST SECURES FINANCING TO FUND THE COSTS OF DEMOLISHING AND CONSTRUCTING IMPROVEMENTS ON THE PROPERTY AND CERTAIN OTHER COSTS AND EXPENSES RELATED THERETO. SUCH FINANCING WILL BE FUNDED OVER TIME DURING THE COURSE OF CONSTRUCTION OF VARIOUS IMPROVEMENTS ON THE PROPERTY, IT BEING CONTEMPLATED THAT LENDER AND/OR ITS SUCCESSORS AND ASSIGNS WILL MAKE FURTHER ADVANCES OF THE LOAN FROM AND AFTER THE DATE OF THIS DEED OF TRUST AND THAT ALL OF SUCH FUTURE ADVANCES SHALL BE SECURED BY THE LIEN OF THIS DEED OF TRUST.

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COMMERCIAL DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

THIS COMMERCIAL DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING ("Instrument") is made as of the 14th day of December, 2005 by BROADSTONE GALLERIA, L.P., a Delaware limited partnership, whose mailing address is c/o Opus West Corporation, 2555 East Camelback Road, Suite 800, Phoenix, Arizona, 85016 ("Borrower"), to WILLIAM D. CLEVELAND, whose mailing address is c/o Chicago Title Insurance Company, 909 Fannin, Suite 200, Houston, Texas, 77010 ("Trustee"), for the benefit of LASALLE BANK NATIONAL ASSOCIATION, a national banking association, its successors and assigns ("Lender"):

RECITALS:

A. Pursuant to the terms of that certain Holdback Agreement of even date herewith by and between Borrower and Lender (the "Holdback Agreement"), Lender has agreed to make a available to Borrower a Six Million Three Hundred Seventy-Five Thousand and 00/100 Dollars ($6,375,000.00) acquisition and development loan (the "Loan"). The Loan shall be evidenced by a certain Promissory Note of even date herewith in the principal amount of $6,375,000.00 (as amended, restated or replaced from time to time, the "Note") and due on June 14, 2006 except as may be accelerated pursuant to the terms hereof or of the Note or any other Loan Document (as defined in the Note).

B. A condition precedent to Lender's extension of the Loan to Borrower is the execution and delivery by Borrower of this Instrument.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

Borrower, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys and assigns unto Trustee, IN TRUST, WITH POWER OF SALE, all of Borrower's estate, right, title and interest, now owned or hereafter acquired, including any reversion or remainder interest, in and to the following property (referred to collectively herein as "Premises"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Real Estate (as defined below) and not secondarily:

THE REAL ESTATE located in the County of Dallas, State of Texas and legally described on Exhibit A attached hereto and made a part hereof, including all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, tenements, hereditaments, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property (collectively, the "Real Estate");

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Borrower and on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of Borrower in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Borrower or on its behalf (the "Improvements");

TOGETHER WITH all easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Borrower of, in and to the same;

TOGETHER WITH all rents, revenues, issues, profits, proceeds, income, royalties, "accounts," including "health-care-insurance receivables," escrows, letter-of-credit rights (each as defined in the Code hereinafter defined), security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by Borrower thereon, to be applied against the Indebtedness (hereinafter defined); provided, however, that Borrower, so long as no Event of Default (as hereinafter defined) has occurred hereunder, may collect rent as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER WITH all interest of Borrower in all leases now or hereafter on the Premises, whether written or oral ("Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Borrower to collect the rentals under any such Lease;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Borrower and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Borrower and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Indebtedness (as hereinafter defined); notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Instrument and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Texas Business and Commerce Code in effect from time to time) (the "Code"), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Trustee for the benefit of Lender, as a secured party, and Borrower, as Debtor, all in accordance with the Code; and

TOGETHER WITH all of Borrower's interests in "general intangibles" including "payment intangibles" and "software" (each as defined in the Code) now owned or hereafter acquired and related to the Premises, including, without limitation, all of Borrower's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which Borrower is or may become a party and which relate to the Premises; (ii) all obligations and indebtedness owed to Borrower thereunder; (iii) all intellectual property related to the Premises; and (iv) all choses in action and causes of action relating to the Premises;

TOGETHER WITH all of Borrower's accounts now owned or hereafter created or acquired as relate to the Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Borrower: (i) accounts, contract rights, health-care-insurance receivables, book debts, notes, drafts, and other obligations or indebtedness owing to the Borrower arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Borrower's rights in, to and under all purchase orders for goods, services or other property; (iii) the Borrower's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due to become due to the Borrower under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Borrower); (v) "securities", "investment property," "financial assets," and "securities entitlements" (each as defined in the Code), and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and all warranties, guarantees, permits and licenses in favor of Borrower with respect to the Premises;

TOGETHER WITH all proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof; and

TO HAVE AND TO HOLD the Premises, unto Trustee for the benefit of Lender, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Event of Default; Borrower hereby RELEASING AND WAIVING all rights under and by virtue of the homestead exemption laws of the State of Texas.

FOR THE PURPOSE OF SECURING: (i) the payment of the Loan and all interest, late charges, LIBOR breakage charges (including any Make Whole Costs described in the Note) prepayment premium (if any), exit fee (if any), interest rate swap or hedge expenses (if any), reimbursement obligations, fees and expenses for letters of credit issued by Lender for the benefit of Borrower, if any, and other indebtedness evidenced by or owing under the Note, any of the other Loan Documents, any interest rate swap or hedge agreement now or hereafter entered into between Borrower and Lender and any application for letters of credit and master letter of credit agreement, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Borrower or any other obligor to or benefiting Lender which are evidenced or secured by or otherwise provided in the Note, this Instrument or any of the other Loan Documents; and (iii) the reimbursement to Lender of any and all sums incurred, expended or advanced by Lender pursuant to any term or provision of or constituting additional indebtedness under or secured by this Instrument, any of the other Loan Documents, any interest rate swap or hedge agreement or any application for letters of credit and master letter of credit agreement, with interest thereon as provided herein or therein (collectively, "Indebtedness").

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Title. Borrower represents, warrants and covenants that (a) Borrower is the holder of the fee simple title to the Premises, free and clear of all liens and encumbrances, except those liens and encumbrances in favor of or for the benefit of Lender and as otherwise described on Exhibit B attached hereto ("Permitted Exceptions"); and (b) Borrower has legal power and authority to grant, bargain, sell, and convey the Premises. Borrower will warrant and forever defend unto Trustee and unto Lender the title to the Premises against all claims and demands, subject only to the Permitted Exceptions.

2. Maintenance, Repair, Restoration, Prior Liens, Parking. Borrower covenants that, so long as any portion of the Indebtedness remains unpaid, Borrower will:

(a) Except as contemplated by the Holdback Agreement, keep the Premises in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien (subject to Borrower's right to contest liens as permitted by the terms of Paragraph 28 hereof);

(b) pay when due the Indebtedness in accordance with the terms of the Note and the other Loan Documents and duly perform and observe all of the terms, covenants and conditions to be observed and performed by Borrower under the Note, this Instrument and the other Loan Documents;

(c) pay when due any indebtedness which may be secured by a permitted lien or charge on the Premises on a parity with, superior to or inferior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Lender (subject to Borrower's right to contest liens as permitted by the terms of Paragraph 28 hereof);

(d) complete within a reasonable time any Improvements now or at any time in the process of erection upon the Premises;

(e) comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;

(f) obtain and maintain in full force and effect, and abide by and satisfy the material terms and conditions of, all material permits, licenses, registrations and other authorizations with or granted by any governmental authorities that may be required from time to time with respect to the performance of its obligations under this Instrument;

(g) except as contemplated by the Loan Documents, make no material alterations in the Premises or demolish any portion of the Premises without Lender's prior written consent, except as required by law or municipal ordinance;

(h) except as contemplated by the Loan Documents, suffer or permit no change in the use or general nature of the occupancy of the Premises, without the Lender's prior written consent;

(i) pay when due all operating costs of the Premises;

(j) not initiate or acquiesce in any zoning reclassification with respect to the Premises, without Lender's prior written consent;

(k) provide and thereafter maintain adequate parking areas within the Premises as may be required by law, ordinance or regulation (whichever may be greater), together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof;

(l) cause the Premises at all times to be operated in compliance with all federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations; and

(m) shall comply, and shall cause the Premises at all times to be operated in compliance, with all applicable federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations, including, without limitation, Borrower shall (i) ensure, and cause each of its subsidiaries to ensure, that no person who owns twenty percent (20.00%) or more of the equity interests in the Borrower, or otherwise controls the Borrower or any of its subsidiaries is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (ii) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (iii) comply, and cause each of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

3. Payment of Taxes and Assessments. Borrower will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against Borrower, if applicable to the Premises or any interest therein, or the Indebtedness, or any obligation or agreement secured hereby, subject to Borrower's right to contest the same, as provided by the terms hereof; and Borrower will, upon written request, furnish to the Lender duplicate receipts therefor within ten (10) days after Lender's request.

4. Tax Deposits. Upon an Event of Default and at Lender's request, Borrower shall deposit with Lender, on the first day of each month until the Indebtedness is fully paid, a sum

equal to one-twelfth (1/12th) of 105% of the most recent ascertainable annual Taxes on the Premises. If requested by Lender, Borrower shall also deposit with Lender an amount of money which, together with the aggregate of the monthly deposits to be made pursuant to the preceding sentence as of one month prior to the date on which the next installment of annual Taxes for the current calendar year become due, shall be sufficient to pay in full such installment of annual Taxes, as estimated by Lender. Such deposits are to be held without any allowance of interest and are to be used for the payment of Taxes next due and payable when they become due. So long as no Event of Default shall exist, Lender shall, at its option, pay such Taxes when the same become due and payable (upon submission of appropriate bills therefor from Borrower) or shall release sufficient funds to Borrower for the payment thereof. If the funds so deposited are insufficient to pay any such Taxes for any year (or installments thereof, as applicable) when the same shall become due and payable, Borrower shall, within ten (10) days after receipt of written demand therefor, deposit additional funds as may be necessary to pay such Taxes in full. If the funds so deposited exceed the amount required to pay such Taxes for any year, the excess shall be applied toward subsequent deposits. Said deposits need not be kept separate and apart from any other funds of Lender. Lender, in making any payment hereby authorized relating to Taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

5. Lender's Interest In and Use of Deposits. Upon an Event of Default, Lender may, at its option, apply any monies at the time on deposit pursuant to Paragraph 4 hereof to cure an Event of Default or to pay any of the Indebtedness in such order and manner as Lender may elect. If such deposits are used to cure an Event of Default or pay any of the Indebtedness, Borrower shall immediately, upon demand by Lender, deposit with Lender an amount equal to the amount expended by Borrower from the deposits. When the Indebtedness has been fully paid, any remaining deposits shall be returned to Borrower. Such deposits are hereby pledged as additional security for the Indebtedness and shall not be subject to the direction or control of Borrower. Lender shall not be liable for any failure to apply to the payment of Taxes any amount so deposited unless Borrower, prior to an Event of Default, shall have requested Lender in writing to make application of such funds to the payment of such amounts, accompanied by the bills for such Taxes. Lender shall not be liable for any act or omission taken in good faith or pursuant to the instruction of any party.

6. Insurance.

(a) Borrower shall, for so long as any buildings on the Improvements are occupied, keep all buildings and improvements now or hereafter situated on the Premises insured against loss or damage by fire and such other hazards as may reasonably be required by Lender, in accordance with the terms, coverages and provisions described on Exhibit C attached hereto and made a part hereof, and such other insurance as Lender may from time to time reasonably require. Upon commencement of construction of new improvements, Borrower shall at all times keep all buildings, improvements, fixtures and articles of personal property situated on the Premises insured against loss or damage as is reasonably required by Lender. Unless Borrower provides Lender evidence of the insurance coverages required hereunder, Lender may purchase insurance at Borrower's expense to cover Lender's interest in the Premises. The insurance may, but need not, protect Borrower's interest. The coverages that Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Premises. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required by this Instrument. If Lender purchases insurance for the Premises, Borrower will be responsible for the costs of such insurance, including, without limitation, interest and any other charges which Lender may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Indebtedness. The cost of the insurance may be more than the cost of insurance Borrower may be able to obtain on its own.

(b) Borrower shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Lender is included thereon as the loss payee or an additional insured as applicable, under a standard mortgage clause acceptable to Lender and such separate insurance is otherwise acceptable to Lender.

(c) In the event of loss, Borrower shall give prompt notice thereof to Lender, who, shall have the sole and absolute right to make proof of loss and Lender, solely and directly shall receive such payment for loss from each insurance company concerned. Lender shall have the right, at its option and in its sole discretion, to apply any insurance proceeds received by Lender pursuant to the terms of this paragraph, after the payment of all of Lender's expenses, on account of the Indebtedness, irrespective of whether such principal balance is then due and payable, whereupon Lender may declare the whole of the balance of Indebtedness Make Whole Costs (as defined in the Note) to be due and payable. Any insurance proceeds applied on account of the unpaid principal balance of the Note shall be subject to the Make Whole Costs described in the Note. In the event of foreclosure of this Instrument, all right, title and interest of Borrower in and to any insurance policies then in force shall pass to the purchaser at the foreclosure sale.

7. Condemnation. If all or any part of the Premises are damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the remaining unpaid Indebtedness, is hereby assigned to Trustee for the benefit of Lender, who is empowered to collect and receive the same and to give proper receipts therefor in the name of Borrower and the same shall be paid forthwith to Lender. Such award or monies shall be applied on account of the Indebtedness, irrespective of whether such Indebtedness is then due and payable and, at any time from and after the taking Lender may declare the whole of the balance of the Indebtedness plus any Make Whole Costs to be due and payable. Notwithstanding the provisions of this paragraph to the contrary, if any condemnation or taking of less than the entire Premises occurs and provided that no Event of Default and no event or circumstance which with the passage of time, the giving of notice or both would constitute an Event of Default then exists, and if such partial condemnation, in the reasonable discretion of Lender, has no material adverse effect on the operation or value of the Premises, then the award or payment for such taking or consideration for damages resulting therefrom may be collected and received by Borrower, and Lender hereby agrees that in such

event it shall not declare the Indebtedness to be due and payable, if it is not otherwise then due and payable.

8. Stamp Tax. If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Borrower, any tax is due or becomes due in respect of the execution and delivery of this Instrument, the Note or any of the other Loan Documents, Borrower shall pay such tax in the manner required by any such law. Borrower further agrees to reimburse Lender for any sums which Lender may expend by reason of the imposition of any such tax. Notwithstanding the foregoing, Borrower shall not be required to pay any income or franchise taxes of Lender.

9. Assignment of Lease and Rents. Borrower, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, to secure the Indebtedness, does hereby absolutely and unconditionally grant, bargain, sell, transfer, assign, convey, set over and deliver unto Lender all right, title and interest of Borrower in, to and under the Leases of the Premises, whether now in existence or hereafter entered into, and all guaranties, amendments, extensions and renewals of said Leases and any of them, and all rents, income and profits which may now or hereafter be or become due or owing under the Leases, and any of them, or on account of the use of the Premises. Borrower represents, warrants, covenants and agrees with Lender as follows:

(a) The sole ownership of the entire lessor's interest in the Leases is vested in Borrower, and Borrower has not, and shall not, perform any acts or execute any other instruments which might prevent Lender from fully exercising its rights with respect to the Leases under any of the terms, covenants and/or conditions of this Instrument.

(b) Other than leases existing as of the date hereof which are to be terminated within ninety days (the "Existing Leases"), the Leases are and shall be valid and enforceable in accordance with their terms and have not been and shall not be altered, modified, amended, terminated, canceled, renewed or surrendered, except as approved in writing by Lender or permitted pursuant to the terms of the Assignment. The terms and conditions of the Leases (other than the Existing Leases) have not been and shall not be waived in any manner whatsoever, except as approved in writing by Lender.

(c) Borrower shall not materially alter the term or the amount of rent payable under any Lease (other than the Existing Leases) without prior written notice to Lender and Lender's prior written consent, which consent shall not be unreasonably withheld.

(d) To the best of Borrower's knowledge, there are no defaults now existing under any of the Leases and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.

(e) Borrower shall give prompt written notice to Lender of any notice received by Borrower claiming that a default has occurred under any of the Leases on the part of Borrower, together with a complete copy of any such notice.

(f) Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any lessee under any of the Leases.

(g) Borrower will not permit any Lease to become subordinate to any lien other than the lien of this Instrument.

This assignment is absolute, is effective immediately, and is irrevocable by Borrower so long as the Indebtedness remains outstanding. Notwithstanding the foregoing, until a Notice is sent to Borrower in writing that an Event of Default has occurred (which notice is hereafter called a "Notice"), Borrower may receive, collect and enjoy the rents, income and profits accruing from the Premises. Notwithstanding anything contained herein to the contrary, in no event shall this assignment be deemed to reduce the Indebtedness unless and to the extent such rents are delivered to Lender and applied against the principal balance of the Indebtedness, and Borrower acknowledges that in no event shall the Indebtedness be reduced by the value from time to time of the rents, income and profits of or from the Premises. In addition, Lender reserves the right, at any time, whether before or after the occurrence of an Event of Default, to recharacterize this assignment as merely constituting security for the indebtedness to Lender, which recharacterization shall be made by written notice delivered to Borrower. Borrower's receipt of any rents, issues, and profits pursuant to this assignment after the institution of foreclosure proceedings, either by court action or by the private power of sale contained in any deed of trust now or hereafter securing the Note, shall not cure an Event of Default, or affect such proceeding or sale. THIS ASSIGNMENT SHALL NOT CONSTITUTE OR EVIDENCE ANY PAYMENT WHATSOEVER ON ACCOUNT OF THE INDEBTEDNESS, AND THE INDEBTEDNESS SHALL ONLY BE REDUCED IF AND TO THE EXTENT SUCH AMOUNTS ARE ACTUALLY PAID TO THE LENDER AND APPLIED BY LENDER IN REDUCTION OF THE UNPAID PRINCIPAL BALANCE OF THE INDEBTEDNESS.

Upon the occurrence of an Event of Default, Lender may, at its option, after service of a Notice, receive and collect all such rents, income and profits from the Premises as they become due. Lender shall thereafter continue to receive and collect all such rents, income and profits, as long as such default or defaults shall exist, and during the pendency of any foreclosure proceedings.

Borrower hereby irrevocably appoints Lender its true and lawful attorney with power of substitution and with full power for Lender in its own name and capacity or in the name and capacity of Borrower, from and after service of a Notice, to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Premises, either in its own name or in the name of Borrower or otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits of and from the Premises. Lessees of the Premises are hereby expressly authorized and directed, following receipt of a Notice from Lender, to pay any and all amounts due Borrower pursuant to the Leases to Lender or such nominee as Lender may designate in a writing delivered to and received by such lessees, and the lessees of the Premises are expressly relieved of any and all duty, liability or obligation to Borrower in respect of all payments so made.

Upon the occurrence of any Event of Default, from and after service of a Notice, Lender is hereby vested with full power to use all measures, legal and equitable, deemed by it to be necessary or proper to enforce this Section and to collect the rents, income and profits assigned hereunder, including the right of Lender or its designee, to enter upon the Premises, or any part thereof, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Borrower relating thereto, and

Lender may exclude Borrower, its agents and servants, wholly therefrom. Borrower hereby grants full power and authority to Lender to exercise all rights, privileges and powers herein granted at any and all times after service of a Notice, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the Premises and of any indebtedness or liability of Borrower to Lender, including, but not limited, to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the Improvements on the Premises or of making the same rentable, reasonable attorneys' fees incurred in connection with the enforcement of this Instrument, and of principal and interest payments due from Borrower to Lender on the Note and this Instrument, all in such order as Lender may determine. Lender shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the lessor under any of the Leases and does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Borrower in the Leases. It is further understood that the assignment set forth in this Section shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Lender, nor shall it operate to make Lender liable for the performance of any of the terms and conditions of any of the Leases, or for any waste of the Premises by any lessee under any of the Leases, or any other person, or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any lessee, licensee, employee or stranger.

Borrower acknowledges that, concurrently herewith, Borrower has executed and delivered to Lender, as additional security for the repayment of the Loan, an Assignment of Rents and Leases ("Assignment") pursuant to which Borrower has assigned to Lender interests in the leases of the Premises and the rents and income from the Premises. All of the provisions of the Assignment are hereby incorporated herein as if fully set forth at length in the text of this Instrument. Borrower agrees to abide by all of the provisions of the Assignment.

10. Effect of Extensions of Time and Other Changes. If the payment of the Indebtedness or any part thereof is extended or varied, if any part of any security for the payment of the Indebtedness is released, if the rate of interest charged under the Note is changed or if the time for payment thereof is extended or varied, all persons now or at any time hereafter liable therefor, or interested in the Premises or having an interest in Borrower, shall be held to assent to such extension, variation, release or change and their liability and the lien and all of the provisions hereof shall continue in full force, any right of recourse against all such persons being expressly reserved by Lender, notwithstanding such extension, variation, release or change.

11. Effect of Changes in Laws Regarding Taxation. If any law is enacted after the date hereof requiring (a) the deduction of any lien on the Premises from the value thereof for the purpose of taxation or (b) the imposition upon Lender of the payment of the whole or any part of the Taxes, charges or liens herein required to be paid by Borrower, or (c) a change in the method of taxation of mortgages, deeds of trust, or debts secured by mortgages or deeds of trust or Lender's interest in the Premises, or the manner of collection of taxes, so as to affect this Instrument or the Indebtedness or the holders thereof, then Borrower, upon demand by Lender, shall pay such Taxes or charges, or reimburse Lender therefor; provided, however, that Borrower shall not be deemed to be required to pay any income or franchise taxes of Lender.

Notwithstanding the foregoing, if in the opinion of counsel for Lender it is or may be unlawful to require Borrower to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Lender may declare all of the Indebtedness to be immediately due and payable.

12. Lender's Performance of Defaulted Acts and Expenses Incurred by Lender. If an Event of Default has occurred, Lender may, but need not, make any payment or perform any act herein required of Borrower in any form and manner deemed expedient by Lender, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default of Borrower in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Lender in regard to any tax referred to in Paragraph 8 above or to protect the Premises or the lien hereof, shall be so much additional Indebtedness, and shall become immediately due and payable by Borrower to Lender, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate (as defined in the Note) then in effect. In addition to the foregoing, any costs, expenses and fees, including reasonable attorneys' fees, incurred by Lender in connection with (a) sustaining the lien of this Instrument or its priority, (b) protecting or enforcing any of Lender's rights hereunder, (c) recovering any Indebtedness, (d) any litigation or proceedings affecting the Note, this Instrument, any of the other Loan Documents or the Premises, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings affecting the Note, this Instrument, any of the other Loan Documents or the Premises, shall be so much additional Indebtedness, and shall become immediately due and payable by Borrower to Lender, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate. The interest accruing under this Paragraph 12 shall be immediately due and payable by Borrower to Lender, and shall be additional Indebtedness evidenced by the Note and secured by this Instrument. Lender's failure to act shall never be considered as a waiver of any right accruing to Lender on account of any Event of Default. Should any amount paid out or advanced by Lender hereunder, or pursuant to any agreement executed by Borrower in connection with the Loan, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof, then Lender shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

13. Security Agreement. Borrower and Lender agree that this Instrument shall constitute a Security Agreement within the meaning of the Code with respect to (a) all sums at any time on deposit for the benefit of Borrower or held by the Lender (whether deposited by or on behalf of Borrower or anyone else) pursuant to any of the provisions of this Instrument or the other Loan Documents, and (b) with respect to any personal property included in the granting clauses of this Instrument or described on Exhibit D attached hereto, which personal property may not be deemed to be affixed to the Premises or may not constitute a "fixture" (within the meaning of the Code) (which property is hereinafter referred to as "Personal Property"), and all

replacements of, substitutions for, additions to, and the proceeds thereof, and the "supporting obligations" (as defined in the Code) (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "Collateral"), and that a security interest in and to the Collateral is hereby granted to the Lender, and the Collateral and all of Borrower's right, title and interest therein are hereby assigned to Lender, all to secure payment of the Indebtedness. All of the provisions contained in this Instrument pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this Paragraph shall not limit the applicability of any other provision of this Instrument but shall be in addition thereto:

(a) Borrower (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral and has rights in and the power to transfer the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting Lender and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.

(b) The Collateral is to be used by Borrower solely for business purposes.

(c) The Collateral will be kept at the Real Estate and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Lender (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.

(d) The only persons having any interest in the Premises are Borrower, Trustee, Lender and holders of interests, if any, expressly permitted hereby.

(e) No Financing Statement (other than Financing Statements showing Lender as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Borrower, at its own cost and expense, upon demand, will furnish to Lender such further information and will execute and deliver to Lender such financing statements and other documents in form satisfactory to Lender and will do all such acts as Lender may request at any time or from time to time or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefiting Lender and no other party and liens and encumbrances (if any) expressly permitted hereby; and Borrower will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Lender to be desirable. Borrower hereby irrevocably authorizes Lender at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto that (i) indicate the Collateral as all assets of Borrower (or words of similar effect), regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed (including, without limitation, the Code), or as being of an equal or lesser scope or within greater detail, and (ii) contain any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed regarding the sufficiency or filing office acceptance of any financing statement or amendment, including whether Borrower is an organization, the type of organization and any organization identification number issued to Borrower, and in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Borrower agrees to furnish any such information to Lender promptly upon request. Borrower further ratifies and affirms its authorization for any financing statements and/or amendments thereto, executed and filed by or on behalf of Lender in any jurisdiction prior to the date of this Instrument.

(f) Upon an Event of Default hereunder, Lender shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as Borrower can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Lender shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Borrower's right of redemption in satisfaction of Borrower's obligations, as provided in the Code. Lender may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Lender may require Borrower to assemble the Collateral and make it available to Lender for its possession at a place to be designated by Lender which is reasonably convenient to both parties. Lender will give Borrower at least ten (10) days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Borrower hereinafter set forth at least ten (10) days before the time of the sale or disposition. Lender may buy at any public sale. Lender may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If Lender so elects, the Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by Lender, shall be applied against the Indebtedness in such order or manner as Lender shall select. Lender will account to Borrower for any surplus realized on such disposition.

(g) The terms and provisions contained in this Paragraph 13, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

(h) This Instrument is intended to be a financing statement within the purview of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Premises. The addresses of Borrower (Debtor) and Lender (Secured Party) are set forth above. This Instrument is to be filed for recording with the Recorder of Deeds of the county or counties where the Premises are located.

(i) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between Borrower or its agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of Borrower, as lessor thereunder.

(j) Borrower represents and warrants that:

(i) Borrower is the record owner of the Premises;

(ii) Borrower's chief executive office is located in the State of Arizona;

(iii) Borrower's state of formation is the State of Delaware;

(iv) Borrower's exact legal name is as set forth in the first paragraph of this Instrument; and

(v) Borrower's organizational identification number is DE 4066055.

(k) Borrower agrees that:

(l) Where Collateral is in possession of a third party, Borrower will join with the Lender in notifying the third party of the Lender's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of Lender;

(i) Borrower will cooperate with the Lender in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

(ii) Until the Indebtedness is paid in full, Borrower will not change the state where it is located or change its corporate name without giving the Lender at least 30 days' prior written notice in each instance.

14. Restrictions on Transfer.

(a) Borrower, without the prior written consent of Lender, shall not effect, suffer or permit any Prohibited Transfer (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties or interests shall constitute a "Prohibited Transfer":

(i) The Premises or any part thereof or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral;

(ii) Any shares of capital stock of a corporate Borrower, a corporation which is a general partner or managing member/manager in a partnership or limited liability company Borrower, or a corporation which is the owner of substantially all of the capital stock of any corporation described in this subparagraph (other than the shares of capital stock of a corporate trustee or a corporation whose stock is publicly traded on a national securities exchange or on the National Association of Securities Dealers' Automated Quotation System);

(iii) All or any part of the membership interests of Borrower, or of the managing member or manager interest, as the case may be, in a limited liability company Borrower or a limited liability company which is a general partner of a partnership Borrower;

(iv) All or any part of the general partner or joint venture interest, as the case may be, of a partnership Borrower or a partnership which is a manager of a limited liability company Borrower or the conversion of a partnership Borrower to a corporation or limited liability company; or

(v) If there shall be any change in control (by way of transfers of stock, partnership or member interests or otherwise) in any partner, member, manager or shareholder, as applicable, which directly or indirectly controls the day to day operations and management of Borrower or Guarantor and/or owns a controlling interest in Borrower or Guarantor;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly (including the nominee agreement), voluntarily or involuntarily, by operation of law or otherwise; provided, however, that notwithstanding anything to the contrary in this Instrument, the foregoing provisions of this Paragraph 14 shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives, (iv) to leases permitted by the terms of the Loan Documents, if any, (v) to a transfer of the Premises in a transaction in which the Loan will be paid off or to any "private fund" transaction (i.e., transfer to an Opus Real Estate acquisition and investment fund) or (vi) to the addition of Broadstone Galleria Alliance, LP, a Texas limited partnership, as a limited partner of Borrower.

Notwithstanding anything to the contrary herein, transfers of any of the foregoing to an Affiliate of Grantor shall not constitute Prohibited Transfers. "Affiliate" for this Section shall mean, when used with reference to a specific Person (as defined herein), any other Person directly or indirectly controlling, controlled by or under common control with such Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlling" or "controlled by") as applied with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person whether through the ownership of voting securities or by contract or otherwise provided (but without limiting the foregoing) that no pledge of voting securities of any person without the current right to exercise voting rights with respect thereto shall by itself be deemed to constitute control over such Person. Without limiting the generality of the foregoing, with respect to Grantor, the word "Affiliate" shall include the founder of Opus Corporation, a Minnesota corporation, a trust for the benefit of the founder of Opus Corporation, a Minnesota corporation, and/or members of his family or their issue, Opus, L.L.C., Opus Corporation, or the parent or subsidiary of any of them, or a partner, limited liability company, corporation or other entity comprised of all or some of the above. "Person" means any individual, partnership, joint venture, limited liability company, corporation, trust, governmental authority or other entity.

(b) In determining whether or not to make the Loan, Lender evaluated the background and experience of Borrower and its partners/officers in owning and operating property such as the Premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is Lender's security for the Note. Borrower and its partners/officers are well experienced in borrowing money and owning and operating property such as the Premises, were ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. Borrower recognizes that Lender is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Borrower. Borrower further recognizes that any secondary junior financing placed upon the Premises (a) may divert funds which would otherwise be used to pay the Note; (b) could result in acceleration and foreclosure by any such junior encumbrances which would force Lender to take measures and incur expenses to protect its security; (c) would detract from the value of the Premises should Lender come into possession thereof with the intention of selling same; and (d) would impair Lender's right to accept a deed in lieu of foreclosure, as a foreclosure by Lender would be necessary to clear the title to the Premises. In accordance with the foregoing and for the purposes of (i) protecting Lender's security, both of repayment and of value of the Premises; (ii) giving Lender the full benefit of its bargain and contract with Borrower; (iii) allowing Lender to raise the interest rate and collect assumption fees; and (iv) keeping the Premises free of subordinate financing liens, Borrower agree that if this Paragraph 14 is deemed a restraint on alienation, that it is a reasonable one.

15. Single Asset Entity. Borrower shall not hold or acquire, directly or indirectly, any ownership interest (legal or equitable) in any real or personal property other than the Premises, or become a shareholder of or a member or partner in any entity which acquires any property other than the Premises, until such time as the Indebtedness has been fully repaid. Borrower's articles of incorporation, partnership agreement or operating agreement, as applicable, shall limit its purpose to the acquisition, operation, management and disposition of the Premises, and such purposes shall not be amended without the prior written consent of Lender. Borrower covenants:

(a) To maintain its assets, accounts, books, records, financial statements, stationery, invoices, and checks separate from and not commingled with any of those of any other person or entity;

(b) To conduct its own business in its own name, pay its own liabilities out of its own funds, allocate fairly and reasonably any overhead for shared employees and office space, and to maintain an arm's length relationship with its affiliates;

(c) To hold itself out as a separate entity, correct any known misunderstanding regarding its separate identity, maintain adequate capital in light of its contemplated business operations, and observe all organizational formalities;

(d) Not to guarantee or become obligated for the debts of any other entity or person or hold out its credits as being available to satisfy the obligations of others, including not acquiring obligations or securities of its partners, members or shareholders;

(e) Not to pledge its assets for the benefit of any other entity or person or make any loans or advances to any person or entity;

(f) Not to enter into any contract or agreement with any party which is directly or indirectly controlling, controlled by or under common control with Borrower(an "Affiliate"), except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any Affiliate;

(g) Neither Borrower nor any constituent party of Borrower will seek the dissolution or winding up, in whole or in part, of Borrower, nor will Borrower merge with or be consolidated into any other entity;

(h) Borrower has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any constituent party of Borrower, Affiliate, any guarantor of the Note or any other person;

(i) Borrower now has and will hereafter have no debts or obligations other than normal accounts payable in the ordinary course of business, this Deed of Trust, and the Loan; and any other indebtedness or other obligation of Borrower has been paid in full prior to or through application of proceeds from the funding of the Loan.

16. Events of Default; Acceleration. Each of the following shall constitute an "Event of Default" for purposes of this Instrument:

(a) Borrower fails to pay (i) any installment of principal or interest payable pursuant to the Note within five (5) business days of the date when due, or (ii) any other amount payable to Lender under the Note, this Instrument or any of the other Loan Documents within five (5) business days after the date when any such payment is due in accordance with the terms hereof or thereof;

(b) Borrower fails to perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Borrower under the Note, this Instrument or any of the other Loan Documents; provided, however, that if such failure by its nature can be cured, then so long as the continued operation and safety of the Premises, and the priority, validity and enforceability of the liens created by the Instrument or any of the other Loan Documents and the value of the Premises are not materially impaired, threatened or jeopardized, then Borrower shall have a period ("Cure Period") of thirty (30) days after Borrower obtains actual knowledge of such failure or receives written notice of such failure to cure the same and an Event of Default shall not be deemed to exist during the Cure Period, provided further that if Borrower commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure, the Cure Period shall be extended for forty-five (45) additional days, but in no event shall the Cure Period be longer than seventy-five (75) days in the aggregate;

(c) the existence of any inaccuracy or untruth in any material respect in any representation or warranty contained in this Instrument or any of the other Loan Documents or of any statement or certification as to facts delivered to Lender by Borrower or Guarantor;

(d) Borrower files a voluntary petition in bankruptcy or is adjudicated a bankrupt or insolvent or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal, state, or other statute or law, or seeks or consents to or acquiesces in the appointment of any trustee, receiver or similar officer of Borrower or any guarantor of the Note or of all or any substantial part of the property of Borrower or any guarantor of the Note or all or a substantial part of the assets of Borrower are attached, seized, subjected to a writ or distress warrant or are levied upon unless the same is released or located within thirty (30) days;

(e) the commencement of any involuntary petition in bankruptcy against Borrower or any guarantor of the Note or the institution against Borrower of any reorganization, arrangement, composition, readjustment, dissolution, liquidation or similar proceedings under any present or future federal, state or other statute or law, or the appointment of a receiver, trustee or similar officer for all or any substantial part of the property of Borrower which shall remain undismissed or undischarged for a period of sixty (60) days;

(f) the dissolution, termination or merger of Borrower or any guarantor of the Note;

(g) the occurrence of a Prohibited Transfer;

(h) the occurrence of a material adverse change in the financial condition of any guarantor of the Note; or

(i) the occurrence of an "Event of Default" under the Note or any of the other Loan Documents.

17. Foreclosure; Expense of Litigation.

(a) When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Instrument or any of the other Loan Documents in accordance with the applicable foreclosure laws of the State of Texas (as may be amended from time to time, the "Act"). In the event of a foreclosure sale, Lender is hereby authorized, without the consent of Borrower, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Lender may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

(b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this paragraph and such other expenses and fees as may be incurred in the enforcement of Borrower's obligations hereunder, the protection of said Premises and the maintenance of the lien of this Instrument, including the reasonable fees of any attorney employed by Lender in any litigation or proceeding affecting this Instrument, the Note, or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Borrower, with interest thereon until paid at the Default Rate and shall be secured by this Instrument.

18. Rights and Remedies on Default under Texas Law. Upon the occurrence of any Event of Default and at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

(a) Lender may declare the entire Indebtedness, including the then unpaid principal balance on the Note, the accrued but unpaid interest thereon, court costs and attorneys' fees hereunder immediately due and payable, without notice, presentment, protest, demand or action of any nature whatsoever (each of which hereby is expressly waived by Borrower), whereupon the same shall become immediately due and payable. Additionally, Lender shall not be required to make any further advances on the Note or other Loan Documents upon the occurrence of an Event of Default or an event which, with the giving of notice or passing of time or both, would constitute an Event of Default.

(b) Lender may enter upon the Premises and take exclusive possession thereof and of all books, records and accounts relating thereto without notice and without being guilty of trespass, and hold, lease, manage, operate or otherwise use or permit the use of the Premises, either itself or by other persons, firms, agents, or entities, in such manner, for such time and upon such other terms as Lender may deem to be proper or necessary under the circumstances (making such repairs, alterations, additions and improvements thereto and taking any and all other action with reference thereto, from time to time, as Lender shall deem necessary or desirable), and apply all rents and other amounts collected by Lender in connection therewith in accordance with the provisions of subsection (h) of this Section, to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Borrower hereby irrevocably appoints Lender as the agent and attorney-in-fact of Borrower, with full power of substitution, and in the name of Borrower, if Lender elects to do so, to (i) endorse the name of Borrower on any checks or drafts representing proceeds of the insurance policies, or other checks or instruments payable to Borrower with respect to the Premises, (ii) prosecute or defend any action or proceeding incident to the Premises, and (iii) take any action with respect to the Premises that Lender may at any time and from time to time deem necessary or appropriate. Lender shall have no obligation to undertake any of the foregoing actions, and if Lender should do so, it shall have no liability to Borrower for the sufficiency or adequacy of any such actions taken by Lender. Without limiting the generality of the foregoing, Lender shall have full power to:

(i) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Borrower to cancel the same;

(ii) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;

(iii) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;

(iv) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises as Lender deems are necessary;

(v) insure and reinsure the Premises and all risks incidental to Lender's possession, operation and management thereof; and

(vi) receive all of such avails, rents, issues and profits.

(c) Lender may, by and through Trustee, or otherwise, sell or offer for sale the Premises in such portions, order and parcels as Lender may determine, with or without having first taken possession of same, to the highest bidder for cash at public auction in accordance with the requirements of Section 51.002 of the Texas Property Code. In instances where the Premises is located in the State of Texas, such sale shall be made at the courthouse of the county in which the Premises (or any of that portion thereof to be sold) is located, whether the parts or parcels thereof, if any, in different counties are contiguous or not (and without the necessity of having any personal property present at such sale) in the area designated by the county commissioners for foreclosure sales (or, if no area has been designated, at the location at the courthouse designated by Lender by or through Trustee in the written notice hereinafter described) on the first Tuesday of a month between the hours of 10:00 a.m. and 4:00 p.m. after advertising the time, place and terms of sale and that portion of the Premises to be sold by posting or causing to be posted written or printed notice thereof at least twenty-one (21) days before the date of the sale both at the courthouse door of each county in which the Premises is located and with the county clerk of each county in which the Premises is located, which notice shall be posted at the courthouse door and filed with the county clerk by the Trustee, or by any person acting for him. The written notice shall include the earliest time at which the sale will be held. Lender shall serve, or shall cause to be served at least twenty-one (21) days before the date of sale, written or printed notice of the proposed sale by certified mail on each debtor obligated to pay the Indebtedness according to the records of Lender by the deposit of such notice in the United States mail, postage prepaid and addressed to each debtor at such debtor's last known address as shown by the records of Lender. The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

(d) Lender, may, at its option, accomplish all or any of the aforesaid in such manner as permitted or required by Section 51.002 of the Texas Property Code relating to the sale of real property or by Chapter 9 of the Code relating to the sale of personalty after default by a debtor (as said section and chapter now exist or may be hereinafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same. At any such sale:

(i) whether made under the power herein contained, the aforesaid Section 51.002, the Code, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Trustee to have physically present, or to have constructive possession of, the Premises (Borrower shall deliver to Trustee any portion of the Premises not actually or constructively possessed by Trustee immediately upon demand by

Trustee), and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale;

(ii) each instrument of conveyance executed by Trustee shall contain a general warranty of title, binding upon Borrower;

(iii) each and every recital contained in any instrument of conveyance made by Trustee shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment of the Indebtedness, advertisement and conduct of such sale in the manner provided herein and otherwise by law and appointment of any successor Trustee hereunder;

(iv) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed;

(v) the receipt by Trustee or of such other party or officer making the sale of the full amount of the purchase money shall be sufficient to discharge the purchaser or purchasers from any further obligation for the payment thereof, and no such purchaser or purchasers, or his or their assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof;

(vi) to the fullest extent permitted by law, Borrower shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, in and to the property sold, and such sale shall be a perpetual bar, both at law and in equity, against Borrower and against all other persons claiming or to claim the property sold or any part thereof by, through or under Borrower; and

(vii) to the extent and under such circumstances as are permitted by law, Lender may be a purchaser at any such sale.

After sale of the Premises, or any portion thereof, Borrower will be divested of any and all interest and claim thereto, including any interest or claim to all insurance policies, bonds, loan commitments and other intangible property covered hereby. Additionally, Borrower will be considered a tenant at sufferance of the purchaser of the Premises, and said purchaser shall be entitled to immediate possession thereof, and if Borrower shall fail to vacate the Premises immediately, the purchaser may and shall have the right, without further notice to Borrower, to go into any justice court in any precinct or county in which the Premises is located and file an action in forcible entry and detainer, which action shall lie against Borrower or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have hereunder or otherwise.

(e) Upon, or at any time after, commencement of foreclosure of the lien and security interest provided for herein or any legal proceedings hereunder, Lender may make application to a court of competent jurisdiction, as a matter of strict right and without notice to Borrower or regard to the adequacy of the Premises, for the repayment of the Indebtedness, for appointment of a receiver of the Premises, and Borrower does hereby irrevocably consent to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Premises upon such terms as may be approved by the court, and shall apply such rents in accordance with the provisions of subsection (h) of this Section.

(f) Lender may exercise any and all other rights, remedies and recourses granted under the Loan Documents or now or hereafter existing in equity, at law, by virtue of statute or otherwise.

(g) Trustee and Lender shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including specifically those granted by the Code in effect and applicable to the Premises or any portion thereof) and the same (i) shall be cumulative and concurrent; (ii) may be pursued separately, successively or concurrently against Borrower, any guarantor of the Indebtedness or others obligated under the Note, or against the Premises, or against any one or more of them at the sole discretion of Lender; (iii) may be exercised as often as occasion therefor shall arise, it being agreed by Borrower that the exercise or failure to exercise any of the same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse; and (iv) are intended to be, and shall be, nonexclusive.

(h) To the fullest extent permitted by law, Borrower hereby irrevocably and unconditionally waives and releases (i) all benefits that might accrue to Borrower by any present or future laws exempting the Premises from attachment, levy or sale on execution or providing for any appraisement, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment; (ii) all notices (except as may be specifically provided for under the terms hereof) of any Event of Default, presentment, demand, notice of intent to accelerate, notice of acceleration and any other notice of Lender's or Trustee's election to exercise or the actual exercise of any right, remedy or recourse provided for under the Loan Documents; (iii) any right to appraisal or marshalling of assets or a sale in inverse order of alienation; (iv) the exemption of homestead; and (v) the administration of estates of decedents, or other matter to defeat, reduce or affect the right of Lender under the terms of this Instrument to sell the Premises for the collection of the Indebtedness secured hereby (without any prior or different resort for collection) or the right of Lender, under the terms of this Instrument, to receive the payment of the Indebtedness out of the proceeds of sale of the Premises in preference to every other person and claimant whatever (only reasonable expenses of such sale being first deducted). Borrower expressly waives and relinquishes any right or remedy which it may have or be able to assert by reason of the provisions of Chapter 34 of the Code pertaining to the rights and remedies of sureties.

(i) The proceeds of any sale of, and the rents, profits and other income generated by the holding, leasing, operating or other use of the Premises, shall be applied by Lender (or the receiver, if one is appointed) to the extent that funds are so available therefrom in the following orders of priority: (i) first, to the payment of the costs and expenses of taking possession of the Premises and of holding, using, leasing, maintaining, repairing, improving and selling the same, including, without limitation, (A) receiver's fees; (B) costs of advertisement; (C) attorneys' and accountants' fees; and (D) court costs, if any; (ii) second, to the payment of all amounts, other than the principal amount and accrued but unpaid interest on the Note which may be due to Lender under the Loan Documents, including all Indebtedness, together with interest thereon as provided therein, in such order and manner as Lender may determine; (iii) third, to the payment of the principal amount outstanding on the Note in such order and manner as Lender may determine and all other Indebtedness; (iv) fourth, to the payment of all accrued but unpaid interest due on the Note in such order and manner as Lender may determine; and (v) fifth, to Borrower. Borrower, any guarantor of the Indebtedness and any other party liable on the Indebtedness shall be liable for any deficiency remaining in the Indebtedness subsequent to any sale referenced in this subsection (h).

(j) Lender shall have the right to become the purchaser at any sale of the Premises hereunder and shall have the right to be credited on the amount of its bid therefor all of the Indebtedness due and owing as of the date of such sale.

(k) If Lender shall accelerate the Indebtedness following the occurrence of an Event of Default, any payments received by Lender following such acceleration, whether as the result of voluntary payments made by Borrower or as a result of the sale of the Premises by Trustee, shall be deemed voluntary prepayments of the Note and accordingly, the prepayment premium required under the Note shall also be payable, subject to the terms of the Note.

(l) The purchaser at any trustee's or foreclosure sale hereunder may disaffirm any easement granted, or rental, lease or other contract made in violation of any provisions of this Instrument and may take immediate possession of the Premises free from, and despite the terms of, any such grant of easement, rental, lease or other contract.

19. <u>Appointment of Receiver</u>. Upon or at any time after the filing of a complaint to foreclose this Instrument, the court in which such complaint is filed shall, upon petition by Lender, appoint a receiver for the Premises in accordance with the Act. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Borrower at the time of application for such receiver and without regard to the value of the Premises or whether the same shall be then occupied as a homestead or not and Lender hereunder or any other holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when Borrower, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the

Premises during said period, including, to the extent permitted by law, the right to lease all or any portion of the Premises for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, or by any decree foreclosing this Instrument, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

20. Intentionally Omitted.

21. Application of Income Received by Lender. Lender, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Lender may determine:

(a) to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include compensation to Lender and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and

(c) to the payment of any Indebtedness, including any deficiency which may result from any foreclosure sale.

22. Compliance with Texas Mortgage Foreclosure Law.

(a) If any provision in this Instrument shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Instrument, but shall not invalidate or render unenforceable any other provision of this Instrument that can be construed in a manner consistent with the Act.

(b) If any provision of this Instrument shall grant to Trustee and/or Lender (including Trustee and/or Lender acting as a Lender-in-possession) or a receiver appointed pursuant to the provisions of Paragraph 19 of this Instrument any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Lender which are of the type referred to in the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in Paragraph 12, 17 or

29 of this Instrument, shall be added to the Indebtedness and/or by the judgment of foreclosure.

All references to Lender in this Section shall include Trustee acting for or on behalf of Lender.

23. Rights Cumulative. Each right, power and remedy herein conferred upon Trustee and/or Lender is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Lender, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Trustee and/or Lender in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

24. Lender's Right of Inspection. Lender and its representatives shall have the right to inspect the Premises and the books and records with respect thereto at all reasonable times upon not less than twenty-four (24) hours prior notice to Borrower, and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

25. Release Upon Payment and Discharge of Borrower's Obligations. Upon payment of all sums secured by this Instrument and any other sums due to Lender in connection with the Loan Documents, and upon the performance of all of Borrower's other obligations under the Loan Documents, and provided that no Event of Default has occurred, Lender shall release this Instrument at Borrower's sole cost and expense.

26. Notices. Any notices, communications and waivers under this Instrument shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Lender:	LaSalle Bank National Association 135 South LaSalle Street, Suite 1225 Chicago, Illinois 60603 Attn: Thomas G. Jeffery, Senior Vice President
With a copy to:	Schwartz Cooper Greenberger & Krauss, Chtd. 180 North LaSalle Street, Suite 2700 Chicago, Illinois 60603 Attn: Michael S. Kurtzon, Esq.
With a copy to Trustee:	William D. Cleveland c/o Chicago Title Insurance Company 909 Fannin, Suite 200 Houston, Texas 77010

To Borrower:	Broadstone Galleria, L.P. c/o Opus West Corporation 2555 East Camelback Road, Suite 800 Phoenix, Arizona 85016 Attn: Senior Vice President Real Estate Finance & Sales
With a copy to:	Opus West Corporation 2555 East Camelback Road, Suite 800 Phoenix, Arizona 85016 Attn: Legal Department
With a copy to:	Greenberg Traurig, LLP 600 Three Galleria Tower 13155 Noel Road Dallas, TX 75240 Attn: Tina M. Ross, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

27. Waiver of Rights. The Borrower hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for the valuation or appraisement of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing, the Borrower will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to the Lender but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and

28. Contests. Notwithstanding anything to the contrary herein contained, Borrower shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Premises (all herein called "Contested Liens"), and no Contested Liens shall constitute an Event of Default hereunder, if, but only if:

(a) Borrower shall forthwith give notice of any Contested Lien to Lender at the time the same shall be asserted;

(b) Borrower shall either pay under protest or deposit with Lender the full amount (herein called "Lien Amount") of such Contested Lien, together with such amount as Lender may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Borrower may furnish to Lender a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Lender;

(c) Borrower shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Lender to be represented in any such contest and shall pay all expenses incurred, in so doing, including fees and expenses of Lender's counsel (all of which shall constitute so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand);

(d) Borrower shall pay such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to Borrower, or (ii) forthwith upon demand by Lender if, in the opinion of Lender, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Borrower shall fail so to do, Lender may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Lender to obtain the release and discharge of such liens; and any amount expended by Lender in so doing shall be so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand; and provided further that Lender may in such case use and apply monies deposited as provided in subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

29. Expenses Relating to Note and Instrument.

(a) Borrower will pay all expenses, charges, costs and fees relating to the Loan or necessitated by the terms of the Note, this Instrument or any of the other Loan Documents, including without limitation, Trustee's and Lender's reasonable attorneys' fees in connection with the negotiation, documentation, administration, servicing and enforcement of the Note, this Instrument and the other Loan Documents, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Instrument and all federal, state, county and municipal taxes, and other taxes (provided Borrower shall not be required to pay any income or franchise taxes of Lender), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Instrument. Borrower recognizes that, during the term of this Instrument, Lender:

(i) May be involved in court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors' arrangements, insolvency, housing authority and pollution control proceedings of any kind, to which Lender shall be a party by reason of the Loan Documents or in which the Loan Documents or the Premises are involved directly or indirectly;

(ii) May make preparations following the occurrence of an Event of Default hereunder for the commencement of any suit for the foreclosure hereof, which may or may not be actually commenced;

(iii) May make preparations following the occurrence of an Event of Default hereunder for, and do work in connection with, Lender's taking possession of and managing the Premises, which event may or may not actually occur;

(iv) May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced;

(v) May enter into negotiations with Borrower or any of its agents, employees or attorneys in connection with the existence or curing of any Event of Default hereunder, the sale of the Premises, the assumption of liability for any of the Indebtedness or the transfer of the Premises in lieu of foreclosure; or

(vi) May enter into negotiations with Borrower or any of its agents, employees or attorneys pertaining to Lender's approval of actions taken or proposed to be taken by Borrower which approval is required by the terms of this Instrument.

(b) All expenses, charges, costs and fees described in this Paragraph 29 shall be so much additional Indebtedness, shall bear interest from the date so incurred until paid at the Default Rate and shall be paid, together with said interest, by Borrower forthwith upon demand.

30. Financial Statements. Borrower represents and warrants that the financial statements for Borrower and the Premises previously submitted to Lender are true, complete and correct in all material respects, disclose all actual and contingent liabilities of Borrower or relating to the Premises and do not contain any untrue statement of a material fact or omit to state a fact material to such financial statements. No material adverse change has occurred in the financial condition of Borrower or the Premises from the dates of said financial statements until the date hereof. Borrower shall furnish to Lender such financial information regarding Borrower, its constituent partners or members, as the case may be, and the Premises as Lender may from time to time reasonably request, which shall include, without any further request therefor, (i) quarterly financial statements for the Premises including a balance sheet, statement of income and rent roll for the Premises (if applicable), no later than forty-five (45) days after the end of each calendar quarter of each year, all in form, scope and detail satisfactory to Lender and certified by the chief financial officer or other appropriate officer, partner or member of Borrower, and (ii) annual financial statements for Borrower and the Premises and annual financial statements for any guarantor of the Note certified by such guarantor to be true, correct and complete, in each case, no later than one hundred twenty (120) days after the end of each year, together with an unqualified accountant's opinion in a form satisfactory to Lender.

31. Statement of Indebtedness. Borrower, within seven days after being so requested by Lender, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Instrument, the date to which interest has been paid and stating either that no offsets or defenses exist against such debt or, if such offsets or defenses are alleged to exist, the nature thereof.

32. Further Instruments. Upon request of Lender, Borrower shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Instrument and of the other Loan Documents.|

33. Intentionally Omitted.

34. Indemnity. Borrower hereby covenants and agrees that no liability shall be asserted or enforced against Lender in the exercise of the rights and powers granted to Lender in this Instrument, and Borrower hereby expressly waives and releases any such liability. Borrower shall indemnify and save Lender harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") of whatever kind or nature which may be imposed on, incurred by or asserted against Lender at any time by any third party which relate to or arise from: (a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Lender may or does become a party, either as plaintiff or as a defendant, by reason of this Instrument or for the purpose of protecting the lien of this Instrument; (b) the offer for sale or sale of all or any portion of the Premises; and (c) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Premises to Lender in accordance with the terms of this Instrument; provided, however, that Borrower shall not be obligated to indemnify or hold Lender harmless from and against any Claims directly arising from the gross negligence or willful misconduct of Lender. All costs provided for herein and paid for by Lender shall be so much additional Indebtedness and shall become immediately due and payable upon demand by Lender and with interest thereon from the date incurred by Lender until paid at the Default Rate.

35. Subordination of Property Manager's Lien. Any property management agreement for the Premises entered into hereafter with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Premises shall be subject and subordinate to the lien of this Instrument and shall provide that Lender may terminate such agreement at any time after the occurrence and continuation of an Event of Default hereunder. A short form of such property management agreement, at Lender's request, shall be recorded with the Recorder of Deeds of the county where the Premises are located. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Borrower shall cause the property manager under such agreement to enter into a subordination of the management agreement with Lender, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to the lien of this Instrument.

36. Compliance with Environmental Laws. Borrower acknowledges that concurrently herewith Borrower has executed and delivered to Lender an Environmental Indemnity Agreement ("Indemnity") pursuant to which Borrower has fully indemnified Lender for certain environmental matters concerning the Premises, as more particularly described therein. The provisions of the Indemnity are hereby incorporated herein and this Instrument shall secure the obligations of Borrower thereunder. Borrower agrees to abide by all of the provisions of the Indemnity.

37. Miscellaneous.

(a) Successors and Assigns. This Instrument and all provisions hereof shall be binding upon and enforceable against Borrower and its assigns and other successors. This Instrument and all provisions hereof shall inure to the benefit of Lender, its successors and assigns and any holder or holders, from time to time, of the Note.

(b) Invalidity of Provisions; Governing Law. THIS INSTRUMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

(c) Municipal Requirements. Borrower shall not by act or omission permit any building or other improvement on premises not subject to the lien of this Instrument to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Borrower hereby assigns to Lender any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Instrument or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by Borrower which would result in a violation of any of the provisions of this subparagraph shall be void.

(d) Rights of Tenants. Lender shall have the right and option to commence a civil action to foreclose this Instrument and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of Lender. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Borrower as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

(e) Option of Lender to Subordinate. At the option of Lender, this Instrument shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Premises upon the execution by Lender of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated.

(f) Lender in Possession. Nothing herein contained shall be construed as constituting Lender a Lender in possession in the absence of the actual taking of possession of the Premises by Lender pursuant to this Instrument.

(g) Relationship of Lender and Borrower. Lender shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Borrower or of any lessee, operator, concessionaire or licensee of Borrower in the conduct of their respective businesses, and, without limiting the foregoing, Lender shall not be deemed to be such partner, joint venturer, agent or associate on account of Lender becoming a Lender in possession or exercising any rights pursuant to this Instrument, any of the other Loan Documents, or otherwise. The relationship of Borrower and Lender hereunder is solely that of debtor/creditor.

(h) Time of the Essence. Time is of the essence of the payment by Borrower of all amounts due and owing to Lender under the Note and the other Loan Documents and the performance and observance by Borrower of all terms, conditions, obligations and agreements contained in this Instrument and the other Loan Documents.

(i) No Merger. The parties hereto intend that the Instrument and the lien hereof shall not merge in fee simple title to the Premises, and if Lender acquires any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Lender as evidenced by an express statement to that effect in an appropriate document duly recorded, this Instrument and the lien hereof shall not merge in the fee simple title and this Instrument may be foreclosed as if owned by a stranger to the fee simple title.

(j) Intentionally Omitted.

(k) Consent to Jurisdiction. TO INDUCE LENDER TO ACCEPT THE NOTE, BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS INSTRUMENT WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWER AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

(l) Waiver of Jury Trial. BORROWER AND LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS INSTRUMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS

INSTRUMENT OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS INSTRUMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS INSTRUMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

(m) Complete Agreement. This Instrument, the Note and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both Borrower and Lender.

(n) Substitute Trustee. Trustee shall not be liable for any error of judgment or act done by Trustee, or be otherwise responsible or accountable under any circumstances whatsoever, except Trustee's gross negligence or willful misconduct. Trustee shall not be personally liable in case of entry by it or anyone acting by virtue of the powers herein granted it upon the Premises for debts contracted or liability or damages incurred in the management or operation of the Premises. All monies received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other monies (except to the extent required by law) and Trustee shall be under no liability for interest on any monies received by it hereunder.

Trustee may resign by giving notice of such resignation in writing to Lender. If Trustee shall die, resign or become disqualified from acting, or shall fail or refuse to exercise its powers hereunder when requested by Lender so to do, or if for any reason and without cause Lender shall prefer to appoint a substitute trustee to act instead of the original Trustee named herein, or any prior successor or substitute trustee, Lender shall have full power to appoint a substitute trustee and, if preferred, several substitute trustees in succession who shall succeed to all the estate, rights, powers and duties of the aforenamed Trustee. Upon appointment by Lender, any new Trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of its predecessor in the rights hereunder with the same effect as if originally named as Trustee herein.

(o) Construction Loan. The Note evidences a debt created by one or more disbursements made by Lender to Borrower to finance, among other things, the cost of the demolition of certain improvements upon the Real Estate in accordance with the provisions of the Holdback Agreement and this Instrument is a construction deed of trust. The terms and conditions recited and set forth in the Holdback Agreement are fully incorporated in this Instrument and made a part hereof, and an Event of Default under any of the conditions or provisions of the Holdback Agreement shall constitute a default hereunder. Upon the occurrence of any such Event of Default, the holder of the Note may at its option declare the Indebtedness immediately due and payable, or complete the demolition of said improvements and enter into the necessary contracts therefor, in which case all money expended shall be so much additional Indebtedness and any money expended in excess of the amount of the original principal shall be immediately due and payable with interest until paid at the Default Rate. In the event of a conflict between the terms of the Holdback Agreement and this Instrument, the provisions of the Holdback Agreement shall apply and take precedence over this Instrument.

(p) Future Advances. This Deed of Trust is given to secure not only the existing Indebtedness, but also future Indebtedness in an amount up to $6,375,000.00, including future advances, whether such advances are obligatory or are to be made at the option of Lender, or otherwise, to the same extent as if such future Indebtedness and advances were made on the date of the execution of this Deed of Trust, and also to secure all other sums or amounts that may be added to the Indebtedness pursuant to the terms of this Deed of Trust, it being contemplated by Lender and Borrower that Borrower is or will become indebted to Lender with respect to such future advances and that all of such future advances shall be deemed a part of the Indebtedness. Notwithstanding anything to the contrary herein contained, any sum or amount which may, pursuant to the terms hereof, be added to the Indebtedness, shall, at the option of Lender, be deemed a "future advance" within the meaning of this Section.

38. Usury. All agreements between Borrower and Lender, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand or acceleration of the maturity date of the Note or otherwise, shall the interest contracted for, charged, received, paid or agreed to be paid to Lender exceed the maximum amount permissible under the applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to Lender in excess of the maximum amount permissible under applicable law, the interest payable to Lender shall be reduced to the maximum amount permissible under applicable law; and if from any circumstance Lender shall ever receive anything of value deemed interest by applicable law in excess of the maximum amount permissible under applicable law, an amount equal to the excessive interest shall be applied to the reduction of the principal of the Note and not to the payment of interest, or if such excessive amount of interest exceeds the unpaid balance of principal of the Note, such excess shall be refunded to Borrower. All interest paid or agreed to be paid to Lender shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period (including any renewal or extension) until payment in full of the principal so that the interest accruing under the Note for such full period shall not exceed the maximum amount permissible under applicable law. Lender expressly disavows any intent to contract for, charge or receive interest in an amount which exceeds the maximum amount permissible under applicable law. Lender and Borrower acknowledge that the Note shall be governed and construed by the laws of the State of Illinois. Notwithstanding the foregoing, if and only if it may be necessary to determine the highest lawful rate per annum permitted by the applicable laws of the State of Texas, the "weekly ceiling" from time to time in effect as defined in Tex. Fin. Code §303.009(f) (1999), as amended, shall be the ceiling applicable to this transaction; however, if permitted by law, Lender may implement any ceiling under that law used to compute the rate of interest hereunder by notice to Borrower as provided in such article. Notwithstanding the foregoing sentence, if the Depository Institutions and Deregulation and Monetary Control Act of 1980, 12 U.S.C. Sections 1235f-7 and 1735f-7a, as amended, permits a higher maximum rate than the Texas Finance Code, such higher maximum rate shall apply to this Note. In determining the highest lawful rate, all fees and other charges contracted for, charged or received

by Lender in connection with the Indebtedness which are either deemed interest by applicable law or required by applicable law to be deducted from the principal balance of the Note to determine the rate of interest hereon shall be taken into account.

NO ORAL AGREEMENTS. THIS WRITTEN AGREEMENT AND THE OTHER CREDIT DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, Borrower has executed and delivered this Instrument the day and year first above written.

BORROWER:

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation
Its: General Partner

By: ____________
Its: ____________
Thomas W. Roberts
President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on the 8 day of December, 2005 by Thomas W. Roberts the President of OWR Galleria, Inc., the general partner of Broadstone Galleria, L.P., a Delaware limited partnership, on behalf of said corporation and partnership.

Kim A. Hennis
NOTARY PUBLIC SIGNATURE

Kim A. Hennis
Printed Name of Notary Public

My Commission Expires: 12/08/08

(SEAL)

OFFICIAL SEAL
KIM A. HENNIS
Notary Public - Arizona
Maricopa County
Comm. Expires Dec. 08, 2008

EXHIBIT "A"

LEGAL DESCRIPTION

Tract 1 - (Lot A, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY, Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot A, Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same tract of land conveyed to the Curtis L. Carlson Dallas Trust by Warranty Deed recorded in Volume 484, Page 1653, transferred to Carlson Realty Company, General Partnership by Warranty Deed recorded in Volume 86171, Page 1589, and to Carlson Realty Company, Limited Partnership, by Quit Claim Deed recorded in Volume 91079, Page 1789, of the Deed Records of Dallas County, Texas (DRDCT), and being more particularly described as follows:

BEGINNING at an "X" cut in Galleria Drive in the westerly Right-of-Way line of Inwood Road (a 60. 0 ft. R. O. W) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said Westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 0. 05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096, Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459.58 feet (Deed 459.65 ft.) and continuing with the North line of said Heritage Square Addition, in all, a total distance of 509.30 feet (Deed 509.13 ft.) to a 5/8 inch iron rod found in asphalt drive for the Southwest corner of Lot A, Block 1 and the Southeast corner of Lot B, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 17 degrees 02 minutes 02 seconds West (Deed North 17 degrees 01 minutes 00 seconds West), departing said North line of Heritage Square Addition, with the common line of said Lots A and B, Block 1, passing 2.9 feet right of the Northeast corner post of a 6 foot chain l ink fence at a distance of 8.7 feet and 2.2 feet left of the Northeast corner post of said 6 foot chain link fence at a distance of 365.4 feet, and continuing, in all, a total distance of 489.26 feet to a point in the South line of Simonton Road (a 60. ft. R. W) for the common North corner of Lots A and B, Block 1, from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, 06 feet;

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road, passing at a distance of 496.4 feet to a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point, 15 feet from the true Northeast corner of Lot Block 1, and continuing, in all, a total distance of 508.41 feet (Deed 508. 49 ft.) to a point for a corner in said Westerly line of Inwood Road, said point being on the Southwest edge of a power pole and within the area of an underground power riser said power pole;

THENCE South 17 degrees 04 minutes 13 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), with said Westerly line of Inwood Road, passing at a distance of 15 feet a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point for the true Northeast corner of Lot A, Block I ' and' continuing, in all, a total distance of 491.28 feet (Deed 491. 48 ft.) to the POINT OF BEGINNING and CONTAINING 238,758 Square Feet or 5.4811 Acres (Deed 5.482 Ac.) of land, more or less.

Tract 2 - (Lot B, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot B Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same tract of land conveyed to Carlson Real Estate Company by Warranty Deed recorded in Volume 90174 Page 0330 of the Deed Records of Dallas County, Texas (DRDCT), and being more particularly described as follows:

COMMENCING at an "X" cut in Galleria Drive in the westerly Right-of-Way line of Inwood Road (a 60. ft. R.) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096 Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459.58 feet (Deed 459.65 ft.) and continuing with the North line of said Heritage Square Addition in all, a total distance of 509.30 feet (Deed 509.13 ft.) to a 5/8 inch iron rod found in asphalt drive for the common South corner of Lot A and Lot B, Block 1 for the POINT OF BEGINNING:

THENCE South 89 degrees 54 minutes 28 seconds West, with the South line of said Lot Block 1 and continuing with said North line of Heritage Square Addition, passing 0.05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Heritage Square Addition and the Northeast corner of Lot 4B of Farmers Branch Office Park Addition, as recorded in Volume 95011 Page 02986 (MRDCT) at a distance of 550.0 feet and

continuing with the North line of said Lot 4B of Farmers Branch Office Park Addition, in all, a total distance of 624.09 feet (Deed 624.49 ft.) to a 1/2 inch capped iron rod with unreadable stamping found for the common South corner Lot Band Lot C, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 00 degrees 07 minutes 08 seconds West (Deed North 00 degrees 12 minutes 20 seconds West), a distance of 21.47 feet (Deed 20.96 feet) of a 1/2 inch iron rod found in the centerline of the St. Louis- Southwestern Railway Company lead track for a common corner of said Lots Band C, Block 1 said point being in a circular curve to the left having a radius of 459.28 feet, a tangent length of 445.41 feet, and a chord which bears North 45 degrees 37 minutes 36 seconds East, a distance of 639.49 feet;

THENCE in an Easterly, Northeasterly, and Northerly direction with the common line of said Lots Band C, Block 1, and curve to the left, through a central angle of 88 degrees 13 minutes 45 seconds (Deed 88 degrees 18 minutes 00 seconds), and in arc length of 707.35 feet (Deed 707.81 ft.) to a 1/2 inch capped iron rod stamped A. Halff found for the common North corner of said Lots Band C, Block 1 at the intersection of said St. Louis- Southwestern Railway Company lead track and the Southerly right-of-way line of Simonton Road (a 60 ft. R. W);

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road, a distance of 23. 71 feet (Deed 24. 03 ft.) to the common North corner of said Lot B and Lot A, Block 1, from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, a distance of 0.06 feet;

THENCE South 17 degrees 02 minutes 02 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), departing said South line of Simmonton Road, with the common line of said Lots A and B, Block 1, passing 2.2 feet right of the Northeast corner post of a 6 foot chain link fence at a distance of 123.8 feet and 2.9 feet left of the Southeast corner posts of said 6 foot chain link fence at a distance of 480.6 feet, continuing in all, a total distance of 489.26 feet to the POINT OF BEGINNING and CONTAINING 471 Square Feet or 2.2835 Acres (Deed 2.2824 Ac.) of land, more or less. Total Tract - (Lot A and Lot B, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY, Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot A and Lot B, Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same called 5.482 acre tract of land conveyed to the Curtis L. Carlson Dallas Trust by Warranty Deed recorded in Volume 484, Page 1653, transferred to Carlson Realty Company, General Partnership by Warranty Deed recorded in Volume 86171, Page 1589, and to Carlson Realty Company, Limited Partnership, by Quit Claim Deed recorded in Volume 91079, Page 1789, of the Deed Records of Dallas County, Texas (DRDCT), and the same called 2.2824 acre TRACT conveyed to Carlson Real Estate Company by Warranty Deed recorded in Volume 90174 Page 0330 of the Deed Records of Dallas County, Texas (DRDCT), and being more particularly described as follows:

BEGINNING at an "X" cut in Galleria Drive in the westerly Right-of-Way line Road (a 60. 0 ft. R.) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 0. 05 feet right of a 1/2" iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096, Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459. 58 feet (Deed 459.65 ft.), continuing with said North line of Heritage Square Addition, passing a 5/8 inch iron rod found in asphalt drive for the common South corner of Lot A and Lot B, Block 1 at a distance of 509.30 feet (Deed 509. 13 ft.), passing 0. 07 feet right of a 1/2 inch iron rod found for the Northwest corner of said Heritage Square Addition and the Northeast corner of Lot 4B of Farmers Branch Office Park Addition, as recorded in Volume 95011, Page 02986 (MRDCT) at a distance of 1009. 58 feet (Deed 1009. 65 ft.), and continuing with the North line of said Lot 4B of Farmers Branch Office Park Addition in all, a total distance of 1133. 38 feet (Deed 1133. 62 ft.) to a 1/2 inch capped iron rod with unreadable stamping found for the common South corner Lot B and Lot C, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 00 degrees 07 minutes 08 seconds West (Deed North 00 degrees 12 minutes 20 seconds West), a distance of 21. 47 feet (Deed 20. 96 ft.) to 1/2" iron rod found in the centerline of the St. Louis Southwestern Railway Company lead track for a common corner of said Lots Band C, Block 1, said point being in a circular curve to the left having a radius of 459. 28 feet, a tangent length of 445. 41 feet, and a chord which bears North 45 degrees 37 minutes 36 seconds East, a distance of 639. 49 feet;

THENCE in an Easterly, Northeasterly, and Northerly direction with the common line of said Lots Band C, Block 1, and curve to the left, through a central angle of 88 degrees 13 minutes 45 seconds (Deed 88 degrees 18 minutes 00 seconds), and an arc length of 707.35 feet (Deed 707.81 ft.) to a 1/2 inch capped iron rod stamped Halff found for the common North corner of said Lots B and C, Block 1 at the intersection of said St. Louis Southwestern Railway Company lead track and the Southerly right-of-way line of Simonton Road (a 60 ft. R.O.W.);

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road and North line of Lot B, Block B, passing the common North corner of said Lot B and Lot A, Block 1 at a distance of 23.71 feet (Deed 24.03 ft.), from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, a distance of 0. 06 feet, and continuing with said South line of Simonton Rood and North line of Lot A, Block 1, passing at a distance of 496. 4 feet to a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point 15 feet from the true Northeast corner of Lot A, Block 1, and continuing, in all, a total distance of 508. 41 feet (Deed 508. ft.) to a

point for a corner in said Westerly line of Inwood Road, said point being on the Southwest edge of a power pole and within the area of an underground power riser on said power pole;

THENCE South 17 degrees 04 minutes 13 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), with said Westerly line of Inwood Road, passing at a distance of 15 feet a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point for the true Northeast corner of Lot A, Block 1, and continuing, in all, a total distance of 491.28 feet (Deed 491.48 ft.) to the POINT OF BEGINNING and CONTAINING 338,229 Square Feet or 7.7647 Acres (Deed 7.7644 Ac.) of land, more or less.

Property Address: 13465 Inwood Road
Farmers Branch, Texas

Tax Number 24125500010010100 (Parcel 1 of 2)
24125500010020000 (Parcel 2 of 2)

EXHIBIT "B"

PERMITTED EXCEPTIONS

1) Real Estate Taxes for the year 2006 and subsequent years, not yet due and payable.

2) Rights of tenants in possession , as tenants only, under unrecorded lease agreements.

3) The following easement affecting the subject property as shown on plat recorded in Volume 363 , Page 1216, Map Records, Dallas County, Texas:

a.) Twelve foot drainage easement along the East property line and as shown on survey prepared by M. L. Mitchell , RPLS#2617 , dated June 2, 2005, last revised July 11 , 2005. (As to Tract 2)

b) Twenty foot railroad easement along the Northwest property line and as shown on survey prepared by M. L. Mitchell , RPLS#2617 , dated June 2005, last revised July 11, 2005. (As to Tract 2).

4) Easement granted by Trammell Crow Company No. 12 to Texas Power & Light Company and Southwestern Bell Telephone Company, dated March 8, 1976, filed for record on June 22 , 1976 and recorded in Volume 76121 , Page 600 Deed Records, Dallas County, Texas and as shown on survey prepared by L. Mitchell , RPLS #2617, dated June 2, 2005, last revised July 11 2005 (Affects Tract 2)

5) All of the oil, gas and other minerals and all other elements not considered a part of the surface estate are excepted herefrom, not insured herein nor guaranteed hereunder, all having been reserved in instrument recorded in Volume 76001, Page 2314, Deed Records, Dallas County, Texas. As noted on survey prepared by M. L. Mitchell, RPLS #2617, dated June 2 , 2005, last revised July 11, 2005. (Affects Tract 2)

6) 3' service area easement granted by Matthew J. Levitt and Arleen Carlson to City of Farmers Branch , dated September 20 , 1985 , filed for record on October 8 , 1985 and recorded in Volume 85197 , Page 3403 and refiled in Volume 85199, Page 14 , Deed Records , Dallas County, Texas , and as shown on survey prepared by M. L. Mitchell , RPLS#2617 , dated June 2 2005, last revised July 11 , 2005 (Affects Tract 1).

7) 18' TP & L easement granted by Matthew J. Levitt and Arleen M. Carlson to Texas Power & Light Company, dated September 20 , 1985, filed for record on October 14 , 1985 and recorded in Volume 85201, Page 1818, Deed Records, Dallas County, Texas , and as shown on survey prepared by M. L. Mitchell , RPLS#2617 , dated June 2, 2005 , last revised July 11 , 2005 (Affects Tract 1).

8) Terms, conditions and provisions contained in Lease Agreement between Arlene M. Carlson, Matthew J. Levitt and Chester C. Krause as Trustees of the Curtis L. Carlson Dallas Trust, as Lessor, and Premium Corporation of America, as Lessee, dated September 1, 1964, as evidenced by that certain Assignment of Lease recorded in Volume 86171, Page 1586, Deed Records, Dallas County, Texas. As noted on survey prepared by M. L. Mitchell, RPLS #2617, dated June 2, 2005, last revised July 11, 2005

9) Nine foot public street easement created in instrument recorded in Volume 85197, Page 3409, Deed Records, Dallas County, Texas and as shown on survey prepared by M. L. Mitchell , RPLS #2617 , dated June 2 , 2005, last revised July 11, 2005.
(Affects Tract l)

10) Railroad R.O.W. easement created in instrument recorded in Volume 76001, Page 2314, Deed Records, Dallas County, Texas and as shown on survey prepared by M. L. Mitchell , RPLS #2617 , dated June 2 , 2005, last revised July 11, 2005. (Affects Tract 2)

EXHIBIT C

INSURANCE REQUIREMENTS

General Information

1. All insurance policies referred to herein shall be in form and substance acceptable to *LaSalle Bank National Association.*

2. *LaSalle Bank National Association* must receive evidence / certificates of insurance at least **ten (10) business days prior to closing.**
   Original policies must be provided to *LaSalle Bank National Association*as soon as they are available from insurers. Certified copies should be available within 60 to 90 days.

3. Proof of coverage must be on the following forms:
   Commercial Property: **ACORD 28 (2003/10)** - EVIDENCE OF COMMERCIAL PROPERTY INSURANCE form.
   Personal Property: **ACORD 27 (2003/10)** EVIDENCE OF PERSONAL PROPERTY INSURANCE form.

   Liability Insurance: Must be written on **ACORD 25S** or its equivalent.
   NOTE: *Please remove any "endeavor to" and "but failure to mail such notice shall impose... respresentitives" lanuage as it relates to notices.* ***Initials by an authorized representative should appear next to any deletions on the certificates.***

4. All property policies shall contain a standard mortgage clause in favor of *LaSalle Bank National Association* and shall provide for a thirty (30) day written notice to *LaSalle Bank National Association* of any material change or cancellation. Certificates with disclaimers will NOT be accepted.

5. The borrower must be the named insured. **Broadstone Galleria, L.P.**

6. Commercial / Personal Property & Builders Risk certificates must show *LaSalle Bank National Association* as **Mortgagee and or Lender's Loss Payee** as follows:

   LaSalle Bank National Association,
   its successors and or assigns
   Commercial Real Estate
   135 S. LaSalle Street, Suite 1225
   Chicago, IL 60603

   (*LaSalle Bank National Association* may be shown as **"Mortgagee and or Lender's Loss Payee As Their Interests May Appear"** until the insurance agent receives release of interest from the prior lender. At that time, the insurance policies will need to be endorsed to show *LaSalle Bank National Association* as **Mortgagee and or Lender's Loss Payee.**

7. The property address must be identified as the insured property.

13465 Inwood Road		
Farmer's Branch	TX	75244

8. All insurance companies must have the following ratings from *AM Best's Rating Guide*:

Policy Rating **A** Financial Rating **VIII**

9. The insurance documentation must be signed by an authorized representative.

Specific Requirements

1. If the property policy is a blanket policy or limit, *LaSalle Bank National Association* must receive a schedule of the amount allocated to the property / rents or the amounts allocated to the property must be indicated on the certificate.

2. Coverage must be on an "all risk" (Special Perils), 100% replacement cost basis without deduction for foundations and footings, and ***WITHOUT*** co-insurance. The co-insurance must be waived or an Agreed Amount endorsement must be included and either ***"No Co-Insurance"*** or ***"Agreed Amount"*** must be indicated on the certificate.

3. Ordinance or Law coverage providing for demolition and increased cost of construction, must be provided and indicated on the certificate.

4. Other coverages such as earthquake, boiler and machinery (which includes the mechanics of the building, such as elevators), and flood will be required when these risks are present.

5. Rent Loss or Business Income coverage shall be in an amount equal to 100% of the projected annual rents or revenue with a minimum period of indemnity of 12 months, or such greater period as *LaSalle Bank National Association* may require. This coverage needs to be written on a Gross Rental Income, Gross Profits or Extended Period of Indemnity form, not on an actual loss sustained basis which may terminate as soon as the premises are tenantable or operational.

6. *LaSalle Bank National Association* and **Broadstone Galleria, L.P.** must be named as Additional Insured for all general liability coverage, with a minimum limit of $2,000,000 for any one occurrence.

Additional Requirements - Construction Loans

1. Coverage must be All Risk Builders Risk Course of Construction, including earthquake and flood when these risks are present. The Builders Risk insurance amount must cover at least 100% of hard costs and not less than 25% of recurring soft costs.

2. Under the Evidence of Property form - The builders risk coverage should make the following statement:

"The General Contractor (name) and all subcontractors of any tier are named insured with respect to builders' risk."

3. Rent coverage must be 100% of the anticipated annual rents (assuming full occupancy) written on a delayed income basis. The policy shall allow for partial or full occupancy.

4. Coverage should also include permission to occupy clause.

EXHIBIT D

ADDITIONAL COLLATERAL

1. All personal property of every nature whatsoever now or hereafter owned by Borrower and on, or used in connection with the real estate legally described on Exhibit A hereto (the "Real Estate") or the improvements thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements thereof and all of the right, title and interest of Borrower in and to any such personal property together with the benefit of any deposits or payments now or hereafter made on such personal property by Borrower or on its behalf;

2. Any and all rents, revenues, issues, profits, proceeds, income, royalties, accounts including health-care insurance receivables, escrows, reserves, impounds, security deposits and other rights to monies now owned or hereafter acquired and arising from or out of the Real Estate and/or the businesses and operations conducted by Borrower thereon;

3. All fixtures and articles of personal property now or hereafter owned by Borrower and forming a part of or used in connection with the Real Estate or the improvements thereon, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor;

4. All proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Real Estate or improvements thereon or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Real Estate or improvements thereon or proceeds of any sale, option or contract to sell the Real Estate or improvements thereon or any portion thereof;

5. Any and all other personal property of any kind, nature or description, whether tangible or intangible, (including without limitation, any and all goods, contract rights, franchises, licenses, permits, chattel paper (including electronic chattel paper), money, equipment, deposit accounts, documents, investment property, instruments, letter-of-credit rights, supporting obligations, and general intangibles including payment intangibles) of Borrower relating to or used in connection with the operation or maintenance of the Real Estate, whether now owned or hereafter acquired, or in which Borrower now has or shall hereafter acquire any right, title or interest whatsoever (whether by bill of sale, lease, conditional sales contract, or other title retention document or otherwise);

6. Any and all additions and accessories to all of the foregoing and any and all proceeds (including proceeds of insurance, eminent domain or other governmental takings and tort claims), renewals, replacements and substitutions of all of the foregoing;

7. All of the books and records pertaining to the foregoing.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

THE COUNTY OF DALLAS STATE OF TEXAS

Cynthia Figueroa Calhoun

Cynthia Figueroa Calhoun, County Clerk

Dallas County TEXAS

December 15, 2005 01:32:14 PM

FEE: $220.00

200503628173

ATTACHMENT 4

2005-00292 LBW

AS 200503628174
15 PGS

This document prepared by
and after recordation return to:

Schwartz, Cooper, Greenberger
& Krauss, Chartered
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
Attn: Michael D. Rothstein, Esq.

This space reserved for Recorder's use only

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (this "Assignment") is made and delivered effective as of the 14th day of December, 2005 by **BROADSTONE GALLERIA, L.P.**, a Delaware limited partnership ("Assignor"), to and for the benefit of **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Assignee").

RECITALS:

A. Assignee has agreed to make a Six Million Three Hundred Seventy-Five Thousand and 00/100 Dollars ($6,375,000.00) loan (the "Loan") to Assignor. Assignor is executing a certain Promissory Note of even date herewith in the principal amount of $6,375,000.00 (as amended, restated or replaced from time to time, the "Note") payable to the order of Assignee to evidence the Loan.

B. A condition precedent to Assignee's making of the Loan to Assignor is the execution and delivery by Assignor of this Assignment.

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

1. **Definitions**. All capitalized terms which are not defined herein shall have the meanings ascribed thereto in that certain Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith from Assignor for the benefit of Assignee (as amended, modified, replaced or restated from time to time, "Deed of Trust") given as security for the Loan.

2. **Grant of Security Interest**. Assignor hereby grants, transfers, sets over and assigns to Assignee, all of the right, title and interest of Assignor in and to (i) all of the rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the land legally described in Exhibit A attached hereto and made a part hereof and all buildings and other improvements located thereon (said land and improvements being hereinafter referred to collectively

as the "Premises"), including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) all leases and subleases (collectively, the "Leases"), now or hereafter existing, of all or any part of the Premises together with all guaranties of any of such Leases and all security deposits delivered by tenants thereunder, whether in cash or letter of credit; (iii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iv) all tenant improvements and fixtures located on the Premises. This Assignment is an absolute transfer and assignment of the foregoing interests to Assignee given to secure:

(a) Payment by Assignor when due of (i) the indebtedness evidenced by the Note and any and all renewals, extensions, replacements, amendments, modifications and refinancings thereof; (ii) any and all other indebtedness and obligations that may be due and owing to Assignee by Assignor under or with respect to the Loan Documents (as defined in the Note); and (iii) all costs and expenses paid or incurred by Assignee in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees; and

(b) Observance and performance by Assignor of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Assignor or any other obligor to or benefiting Assignee which are evidenced or secured by or otherwise provided in the Note, this Assignment or any of the other Loan Documents, together with all amendments and modifications thereof.

(c) Notwithstanding anything contained herein to the contrary, in no event shall this assignment be deemed to reduce the Indebtedness unless and to the extent such rents are delivered to Assignee and applied against the principal balance of the Indebtedness, and Assignor acknowledges that in no event shall the Indebtedness be reduced by the value from time to time of the rents, income and profits of or from the Premises. In addition, Assignee reserves the right, at any time, whether before or after the occurrence of an Event of Default, to recharacterize this assignment as merely constituting security for the indebtedness to Assignee, which recharacterization shall be made by written notice delivered to Assignor. Assignor's receipt of any rents, issues, and profits pursuant to this assignment after the institution of foreclosure proceedings, either by court action or by the private power of sale contained in any deed of trust now or hereafter securing the Note, shall not cure an Event of Default, or affect such proceeding or sale. THIS ASSIGNMENT SHALL NOT CONSTITUTE OR EVIDENCE ANY PAYMENT WHATSOEVER ON ACCOUNT OF THE INDEBTEDNESS, AND THE INDEBTEDNESS SHALL ONLY BE REDUCED IF AND TO THE EXTENT SUCH AMOUNTS ARE ACTUALLY PAID TO THE ASSIGNEE AND APPLIED BY ASSIGNEE IN REDUCTION OF THE UNPAID PRINCIPAL BALANCE OF THE INDEBTEDNESS.

3. **Representations and Warranties of Assignor**. Assignor represents and warrants to Assignee that:

(a) this Assignment, as executed by Assignor, constitutes the legal and binding obligation of Assignor enforceable in accordance with its terms and provisions;

(b) As of the date hereof, there are two existing Leases (the "Existing Leases"), which Leases will be terminated by Assignor pursuant to the terms thereof;

(c) there is no other existing assignment of Assignor's entire or any part of its interest in or to any of the Leases, or any of the rents, issues, income or profits assigned hereunder, nor has either Assignor entered into any agreement to subordinate any of the Leases or such Assignor's right to receive any of the rents, issues, income or profits assigned hereunder; and

(d) Assignor has not executed any instrument or performed any act which may prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation;

4. Covenants of Assignor. Assignor covenants and agrees that so long as this Assignment shall be in effect:

(a) Assignor shall not lease any portion of the Premises unless Assignor obtains Assignee's prior written consent to all aspects of such lease;

(b) Assignor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and Assignor shall not do or suffer to be done anything to impair the security thereof. Assignor shall not (i) release the liability of any tenant under any Lease (except Existing Leases), (ii) consent to any tenant's withholding of rent or making monetary advances and off-setting the same against future rentals (except Existing Leases), (iii) consent to any tenant's claim of a total or partial eviction, (iv) consent to a tenant termination or cancellation of any Lease (except Existing Leases), except as specifically provided therein, or (v) enter into any oral leases with respect to all or any portion of the Premises;

(c) Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty days in advance of the time when the same shall become due, except for security or similar deposits;

(d) Assignor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Loan Documents;

(e) Assignor shall not materially modify the terms and provisions of any Lease, nor shall Assignor give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any Lease (except Existing Leases), without Assignee's prior written consent; provided, however, that Assignor may cancel or terminate any Lease as a result of a material default by the tenant thereunder and failure of such tenant to cure the default within the applicable time periods set forth in the Lease;

(f) Assignor shall not accept a surrender of any Lease (except Existing Leases) or convey or transfer, or suffer or permit a conveyance or transfer, of the premises demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, any tenant thereunder; any termination fees payable under a Lease for the early termination or surrender thereof shall be paid jointly to Assignor and Assignee;

(g) Assignor shall not alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or permit to be done anything which would terminate any such guaranty as a matter of law;

(h) Assignor shall not waive or excuse the obligation to pay rent under any Lease (except Existing Leases);

(i) Assignor shall, at its sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or any tenant or guarantor thereunder, and shall pay all costs and expenses of Assignee, including court costs and reasonable attorneys' fees, in any such action or proceeding in which Assignee may appear;

(j) Assignor shall give prompt notice to Assignee of any notice of any default by the lessor under any Lease received from any tenant or guarantor thereunder;

(k) Assignor shall enforce the observance and performance of each covenant, term, condition and agreement contained in each Lease to be observed and performed by the tenants and guarantors thereunder and shall immediately notify Assignee of any material breach by the tenant or guarantor under any such Lease;

(l) Assignor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby or liens for general real estate taxes not delinquent; and

(m) Assignor shall not execute hereafter any Lease unless there shall be included therein a provision providing that the tenant thereunder acknowledges that such Lease has been assigned pursuant to this Assignment and agrees not to look to Assignee as mortgagee, mortgagee in possession or successor in title to the Premises for accountability for any security deposit required by lessor under such Lease unless such sums have actually been received in cash by Assignee as security for tenant's performance under such Lease.

(n) Once the tenants are in possession under the Leases (other than Existing Leases), not less than thirty (30) days after the end of each calendar quarter, the Assignor shall deliver to the Assignee a certified rent roll for the Premises as of the last day of such period in a form reasonably satisfactory to Assignee.

5. <u>**Rights Prior to Default**</u>. Unless or until an Event of Default (as defined in Paragraph 6) shall occur, Assignor shall have the right to collect, at the time (but in no event more than thirty days in advance) provided for the payment thereof, all rents, issues, income and profits assigned hereunder, and to retain, use and enjoy the same. Upon the occurrence of an Event of Default, Assignor's right to collect such rents, issues, income and profits shall immediately terminate without further notice thereof to Assignor. Assignee shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

6. <u>**Events of Default**</u>. An "Event of Default" shall occur under this Assignment upon the occurrence of (a) a breach by Assignor of any of the covenants, agreements, representations, warranties or other provisions hereof which is not cured or waived within the applicable grace or

cure period, if any, set forth in the Deed of Trust or (b) any other Event of Default described in the Note, Deed of Trust or the other Loan Documents.

7. **Rights and Remedies Upon Default**. At any time upon or following the occurrence of any Event of Default, Assignee, at its option, may exercise any one or more of the following rights and remedies without any obligation to do so, without in any way waiving such Event of Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor from any obligation, and with or without bringing any action or proceeding to foreclose the Deed of Trust or any other lien or security interest granted by the Loan Documents:

(a) Declare the unpaid balance of the principal sum of the Note, together with all accrued and unpaid interest thereon, immediately due and payable;

(b) Enter upon and take possession of the Premises, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee, to make, enforce, modify and accept the surrender of Leases, to obtain and evict tenants, to fix or modify rents, and to do any other act which Assignee deems necessary or proper;

(c) Either with or without taking possession of the Premises, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits of and from the Premises and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder. This Assignment shall constitute an authorization and direction to the tenants under the Leases to pay all rents and other amounts payable under the Leases to Assignee, without proof of default hereunder, upon receipt from Assignee of written notice to thereafter pay all such rents and other amounts to Assignee and to comply with any notice or demand by Assignee for observance or performance of any of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the tenants thereunder, and Assignor shall facilitate in all reasonable ways Assignee's collection of such rents, issues, income and profits, and upon request will execute written notices to the tenants under the Leases to thereafter pay all such rents and other amounts to Assignee;

(d) Make any payment or do any act required herein of Assignor in such manner and to such extent as Assignee may deem necessary, and any amount so paid by Assignee shall become immediately due and payable by Assignor with interest thereon until paid at the Default Rate and shall be secured by this Assignment;

(e) Exercise any other remedy available to it under any of the other Loan Documents, at law or in equity.

8. **Application of Proceeds**. All sums collected and received by Assignee out of the rents, issues, income and profits of the Premises following the occurrence of any one or more Events of Default shall be applied in accordance with the applicable mortgage foreclosure law and, unless otherwise specified in such act, in such order as Assignee shall elect in its sole and absolute discretion.

9. **Limitation of Assignee's Liability**. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Premises or from any other act or omission of Assignee in managing, operating or maintaining the Premises following the occurrence of an Event of Default. Assignee shall not be obligated to observe, perform or discharge, nor does Assignee hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of Assignor under or by reason of this Assignment. Assignor shall and does hereby agree to indemnify, defend (using counsel satisfactory to Assignee) and hold Assignee harmless from and against any and all liability, loss or damage which Assignee may incur under any Lease or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided, however, in no event shall Assignor be liable for any liability, loss or damage which Assignor incurs as a result of Assignee's gross negligence or willful misconduct. Should Assignee incur any such liability, loss or damage under any Lease or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by Assignor with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility upon Assignee for the care, control, management or repair of the Premises or for the carrying out of any of the covenants, terms, conditions and agreements contained in any Lease, nor shall it operate to make Assignee responsible or liable for any waste committed upon the Premises by any tenant, occupant or other party, or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger. Nothing set forth herein or in the Deed of Trust, and no exercise by Assignee of any of the rights set forth herein or in the Deed of Trust shall constitute or be construed as constituting Assignee a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by Assignee pursuant to the provisions hereof or of the Deed of Trust.

10. **No Waiver**. Nothing contained in this Assignment and no act done or omitted to be done by Assignee pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under any of the Loan Documents. This Assignment is made and accepted without prejudice to any of the rights and remedies of Assignee under the terms and provisions of such instruments, and Assignee may exercise any of its rights and remedies under the terms and provisions of such instruments either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Assignee may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.

11. **Further Assurances**. Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as Assignee may designate) and shall do or cause to be done such further acts, as Assignee may request, in order to permit Assignee to perfect, protect, preserve and maintain the assignment made to Assignee by this Assignment.

12. **Security Deposits**. Assignor acknowledges that Assignee has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that Assignee assumes no responsibility or liability for any security so deposited.

13. __Severability__. If any provision of this Assignment is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Assignee and Assignor shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Assignment and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

14. __Successors and Assigns__. This Assignment is binding upon Assignor and its legal representatives, successors and assigns, and the rights, powers and remedies of Assignee under this Assignment shall inure to the benefit of Assignee and its successors and assigns.

15. __Written Modifications__. This Assignment shall not be amended, modified or supplemented without the written agreement of Assignor and Assignee at the time of such amendment, modification or supplement.

16. __Duration__. This Assignment shall become null and void at such time as Assignor shall have paid the principal sum of the Note, together with all interest thereon, and shall have fully paid and performed all of the other obligations secured hereby and by the other Loan Documents.

17. __Invalidity of Provisions; Governing Law__. **THIS ASSIGNMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN ILLINOIS; PROVIDED, HOWEVER, THOSE PROVISIONS OF THE LOAN DOCUMENTS PERTAINING TO PROCEDURES FOR FILING OF OR EXECUTION ON AND THE VALIDITY AND ENFORCEABILITY OF LIENS AND SECURITY INTERESTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN TEXAS. IN THE EVENT THAT ANY PROVISION OR CLAUSE OF THIS ASSIGNMENT CONFLICTS WITH APPLICABLE LAW, SUCH CONFLICT SHALL NOT AFFECT OTHER PROVISIONS OF THIS ASSIGNMENT WHICH CAN BE GIVEN EFFECT WITHOUT THE CONFLICTING PROVISION, AND TO THIS END THE PROVISIONS OF THIS INSTRUMENT ARE DECLARED TO BE SEVERABLE.**

18. __Notices__. All notices, demands, requests and other correspondence which are required or permitted to be given hereunder shall be deemed sufficiently given when delivered or mailed in the manner and to the addresses of Assignor and Assignee, as the case may be, as specified in the Deed of Trust.

19. __Waiver of Trial by Jury__. **ASSIGNOR AND ASSIGNEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS ASSIGNMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS ASSIGNMENT OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS ASSIGNMENT, AND AGREES THAT ANY SUCH ACTION OR**

PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. ASSIGNOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST ASSIGNEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS ASSIGNMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

20. Power of Attorney. Borrower hereby irrevocably appoints Lender its true and lawful attorney with power of substitution and with full power for Lender in its own name and capacity or in the name and capacity of Borrower, from and after service of a notice of the occurrence of an Event of Default (as used in this paragraph, each a "Notice"), to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Property, either in its own name or in the name of Borrower or otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits of and from the Property. Lessees of the Property are hereby expressly authorized and directed, following receipt of a Notice from Lender, to pay any and all amounts due Borrower pursuant to the Leases to Lender or such nominee as Lender may designate in a writing delivered to and received by such lessees, and the lessees of the Property are expressly relieved of any and all duty, liability or obligation to Borrower in respect of all payments so made.

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<u>NO ORAL AGREEMENTS</u>. THIS WRITTEN AGREEMENT AND THE OTHER CREDIT DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, Assignor has executed and delivered this Assignment as of the day and year first above written.

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation
Its: General Partner

By: ______________________
Its: ______________________
Thomas W. Roberts
President

STATE OF ARIZONA)
) SS.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on the 8 day of December, 2005, by Thomas W. Roberts the President of OWR Galleria, Inc., a Delaware corporation, the general partner of Broadstone Galleria, L.P., a Delaware limited partnership, on behalf of said corporation and partnership.

Kim A. Hennis
Notary Public in and for the
State of Arizona

Printed Name of Notary Public:
Kim A. Hennis

My Commission Expires:
12/08/08

[seal]

OFFICIAL SEAL
KIM A. HENNIS
Notary Public - Arizona
Maricopa County
Comm. Expires Dec. 08, 2008

EXHIBIT "A"

LEGAL DESCRIPTION

Tract 1 - (Lot A, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY, Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot A, Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same tract of land conveyed to the Curtis L. Carlson Dallas Trust by Warranty Deed recorded in Volume 484, Page 1653, transferred to Carlson Realty Company, General Partnership by Warranty Deed recorded in Volume 86171, Page 1589, and to Carlson Realty Company, Limited Partnership, by Quit Claim Deed recorded in Volume 91079, Page 1789, of the Deed Records of Dallas County, Texas (DRDCT) , and being more particularly described as follows:

BEGINNING at an "X" cut in Galleria Drive in the westerly Right-of-Way line of Inwood Road (a 60. 0 ft. R. O. W) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said Westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 0. 05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096, Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459.58 feet (Deed 459.65 ft.) and continuing with the North line of said Heritage Square Addition, in all, a total distance of 509.30 feet (Deed 509.13 ft.) to a 5/8 inch iron rod found in asphalt drive for the Southwest corner of Lot A, Block 1 and the Southeast corner of Lot B, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 17 degrees 02 minutes 02 seconds West (Deed North 17 degrees 01 minutes 00 seconds West), departing said North line of Heritage Square Addition, with the common line of said Lots A and B, Block 1, passing 2.9 feet right of the Northeast corner post of a 6 foot chain I ink fence at a distance of 8.7 feet and 2.2 feet left of the Northeast corner post of said 6 foot chain link fence at a distance of 365.4 feet, and continuing, in all, a total distance of 489.26 feet to a point in the South line of Simonton Road (a 60. ft. R. W) for the common North corner of Lots A and B, Block 1, from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, 06 feet;

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road, passing at a distance of 496.4 feet to a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point, 15 feet from the true Northeast corner of Lot Block 1, and continuing, in all, a total distance of 508.41 feet (Deed 508. 49 ft.) to a point for a corner in said Westerly line of Inwood Road, said point being on the Southwest edge of a power pole and within the area of an underground power riser said power pole;

THENCE South 17 degrees 04 minutes 13 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), with said Westerly line of Inwood Road, passing at a distance of 15 feet a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point for the true Northeast corner of Lot A, Block I ' and' continuing, in all, a total distance of 491.28 feet (Deed 491. 48 ft.) to the POINT OF BEGINNING and CONTAINING 238,758 Square Feet or 5.4811 Acres (Deed 5.482 Ac.) of land, more or less.

Tract 2 - (Lot B, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot B Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same tract of land conveyed to Carlson Real Estate Company by Warranty Deed recorded in Volume 90174 Page 0330 of the Deed Records of Dallas County, Texas (DRDCT), and being more particularly described as follows:

COMMENCING at an "X" cut in Galleria Drive in the westerly Right-of-Way line of Inwood Road (a 60. ft. R.) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096 Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459.58 feet (Deed 459.65 ft.) and continuing with the North line of said Heritage Square Addition in all, a total distance of 509.30 feet (Deed 509.13 ft.) to a 5/8 inch iron rod found in asphalt drive for the common South corner of Lot A and Lot B, Block 1 for the POINT OF BEGINNING:

THENCE South 89 degrees 54 minutes 28 seconds West, with the South line of said Lot Block 1 and continuing with said North line of Heritage Square Addition, passing 0.05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Heritage Square Addition and the Northeast corner of Lot 4B of Farmers Branch Office Park Addition, as recorded in Volume 95011 Page 02986 (MRDCT) at a distance of 550.0 feet and

continuing with the North line of said Lot 4B of Farmers Branch Office Park Addition, in all, a total distance of 624.09 feet (Deed 624.49 ft.) to a 1/2 inch capped iron rod with unreadable stamping found for the common South corner Lot Band Lot C, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 00 degrees 07 minutes 08 seconds West (Deed North 00 degrees 12 minutes 20 seconds West), a distance of 21.47 feet (Deed 20.96 feet) of a 1/2 inch iron rod found in the centerline of the St. Louis- Southwestern Railway Company lead track for a common corner of said Lots Band C, Block 1 said point being in a circular curve to the left having a radius of 459.28 feet, a tangent length of 445.41 feet, and a chord which bears North 45 degrees 37 minutes 36 seconds East, a distance of 639.49 feet;

THENCE in an Easterly, Northeasterly, and Northerly direction with the common line of said Lots Band C, Block 1, and curve to the left, through a central angle of 88 degrees 13 minutes 45 seconds (Deed 88 degrees 18 minutes 00 seconds), and in arc length of 707.35 feet (Deed 707.81 ft.) to a 1/2 inch capped iron rod stamped A. Halff found for the common North corner of said Lots Band C, Block 1 at the intersection of said St. Louis- Southwestern Railway Company lead track and the Southerly right-of-way line of Simonton Road (a 60 ft. R. W);

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road, a distance of 23. 71 feet (Deed 24. 03 ft.) to the common North corner of said Lot B and Lot A, Block 1, from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, a distance of 0.06 feet;

THENCE South 17 degrees 02 minutes 02 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), departing said South line of Simmonton Road, with the common line of said Lots A and B, Block 1, passing 2.2 feet right of the Northeast corner post of a 6 foot chain link fence at a distance of 123.8 feet and 2.9 feet left of the Southeast corner posts of said 6 foot chain link fence at a distance of 480.6 feet, continuing in all, a total distance of 489.26 feet to the POINT OF BEGINNING and CONTAINING 471 Square Feet or 2.2835 Acres (Deed 2.2824 Ac.) of land, more or less. Total Tract - (Lot A and Lot B, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY, Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot A and Lot B, Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same called 5.482 acre tract of land conveyed to the Curtis L. Carlson Dallas Trust by Warranty Deed recorded in Volume 484, Page 1653, transferred to Carlson Realty Company, General Partnership by Warranty Deed recorded in Volume 86171, Page 1589, and to Carlson Realty Company, Limited Partnership, by Quit Claim Deed recorded in Volume 91079, Page 1789, of the Deed Records of Dallas County, Texas (DRDCT), and the same called 2.2824 acre TRACT conveyed to Carlson Real Estate Company by Warranty Deed recorded in Volume 90174 Page 0330 of the Deed Records of Dallas County, Texas (DRDCT), and being more particularly described as follows:

BEGINNING at an "X" cut in Galleria Drive in the westerly Right-of-Way line Road (a 60. 0 ft. R.) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 0. 05 feet right of a 1/2" iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096, Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459. 58 feet (Deed 459.65 ft.), continuing with said North line of Heritage Square Addition, passing a 5/8 inch iron rod found in asphalt drive for the common South corner of Lot A and Lot B, Block 1 at a distance of 509.30 feet (Deed 509. 13 ft.), passing 0. 07 feet right of a 1/2 inch iron rod found for the Northwest corner of said Heritage Square Addition and the Northeast corner of Lot 4B of Farmers Branch Office Park Addition, as recorded in Volume 95011, Page 02986 (MRDCT) at a distance of 1009. 58 feet (Deed 1009. 65 ft.), and continuing with the North line of said Lot 4B of Farmers Branch Office Park Addition in all, a total distance of 1133. 38 feet (Deed 1133. 62 ft.) to a 1/2 inch capped iron rod with unreadable stamping found for the common South corner Lot B and Lot C, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 00 degrees 07 minutes 08 seconds West (Deed North 00 degrees 12 minutes 20 seconds West), a distance of 21. 47 feet (Deed 20. 96 ft.) to 1/2" iron rod found in the centerline of the St. Louis Southwestern Railway Company lead track for a common corner of said Lots Band C, Block 1, said point being in a circular curve to the left having a radius of 459. 28 feet, a tangent length of 445. 41 feet, and a chord which bears North 45 degrees 37 minutes 36 seconds East, a distance of 639. 49 feet;

THENCE in an Easterly, Northeasterly, and Northerly direction with the common line of said Lots Band C, Block 1, and curve to the left, through a central angle of 88 degrees 13 minutes 45 seconds (Deed 88 degrees 18 minutes 00 seconds), and an arc length of 707.35 feet (Deed 707.81 ft.) to a 1/2 inch capped iron rod stamped Halff found for the common North corner of said Lots B and C, Block 1 at the intersection of said St. Louis Southwestern Railway Company lead track and the Southerly right-of-way line of Simonton Road (a 60 ft. R.O.W.);

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road and North line of Lot B, Block B, passing the common North corner of said Lot B and Lot A, Block 1 at a distance of 23.71 feet (Deed 24.03 ft.), from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, a distance of 0. 06 feet, and continuing with said South line of Simonton Rood and North line of Lot A, Block 1, passing at a distance of 496. 4 feet to a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point 15 feet from the true Northeast corner of Lot A, Block 1, and continuing, in all, a total distance of 508. 41 feet (Deed 508. ft.) to a

point for a corner in said Westerly line of Inwood Road, said point being on the Southwest edge of a power pole and within the area of an underground power riser on said power pole;

THENCE South 17 degrees 04 minutes 13 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), with said Westerly line of Inwood Road, passing at a distance of 15 feet a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point for the true Northeast corner of Lot A, Block 1, and continuing, in all, a total distance of 491.28 feet (Deed 491.48 ft.) to the POINT OF BEGINNING and CONTAINING 338,229 Square Feet or 7.7647 Acres (Deed 7.7644 Ac.) of land, more or less.

Property Address: 13465 Inwood Road
Farmers Branch, Texas

Tax Number 24125500010010100 (Parcel 1 of 2)
24125500010020000 (Parcel 2 of 2)

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
THE COUNTY OF DALLAS STATE OF TEXAS
Cynthia Figueroa Calhoun
Cynthia Figueroa Calhoun, County Clerk
Dallas County TEXAS
December 15, 2005 01:32:14 PM
FEE: $72.00
200503628174

ATTACHMENT 5

1285987684

LBNA / Commercial

AMENDED AND RESTATED PROMISSORY NOTE

No. ____________________

$45,850,000 Date: June 30, 2006
Chicago, Illinois Due Date: June 30, 2009

This Note is being executed and delivered to the Lender by the Borrower to amend, restate, increase, renew, extend and further evidence the indebtedness evidenced by that certain Promissory Note dated as of December 14, 2005, executed by the Borrower payable to the order of the Lender, in the original principal amount of $6,375,000, as heretofore amended or modified (as so amended or modified, the "Original Note"). This Note shall constitute a renewal, amendment and restatement of the Original Note in its entirety. This Note does not constitute a novation or payment of any part of the indebtedness evidenced by the Original Note.

1. AGREEMENT TO PAY. For value received, BROADSTONE GALLERIA, L.P., a Delaware limited partnership (the "Borrower") hereby promises to pay to the order of LASALLE BANK NATIONAL ASSOCIATION, a national banking association, its successors and assigns (the "Lender"), the principal sum of FORTY FIVE MILLION EIGHT HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS ($45,850,000.00) (the "Loan"), or so much of the Loan as may be advanced under and pursuant to that certain Construction Loan Agreement dated as of even date herewith executed by and between the Borrower and the Lender (the "Loan Agreement"), on or before June 30, 2009 (the "Maturity Date"), as the Maturity Date may be extended to June 30, 2010 (the "Extended Maturity Date"), at the place and in the manner hereinafter provided, together with interest thereon at the rate or rates described below, and any and all other amounts which may be due and payable hereunder or under any of the Loan Documents (as hereinafter defined) from time to time.

2. INTEREST RATE.

2.1 Interest Prior to Default.

(a) Interest shall accrue on the principal balance of this Note outstanding from the date hereof through the Maturity Date at the Borrower's option from time to time of (i) a floating per annum rate of interest (the "Floating Rate") equal to the Prime Rate (as hereinafter defined), or (ii) a per annum rate of interest (the "LIBOR Rate") equal to LIBOR (as hereinafter defined) for the relevant Interest Period (as hereinafter defined), plus two and five one hundredths percent (2.05%) (the "Applicable Margin"), such LIBOR Rate to remain fixed for such Interest Period. Changes in the Floating Rate to be charged hereunder based on the Prime Rate shall take effect immediately upon the occurrence of any change in the Prime Rate. Any portion of the principal amount of this Note bearing interest at the Floating Rate is referred to herein as a "Prime Loan". Any portion of the principal amount of this Note bearing interest at the LIBOR Rate is referred to herein as a "LIBOR Loan".

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(b) A request by the Borrower for a Prime Loan must be received by the Lender in writing no later than 2:00 p.m. Chicago, Illinois time, on any day other than a Saturday, Sunday or a legal holiday on which banks are authorized or required to be closed for the conduct of commercial banking business in Chicago, Illinois (a "Business Day"). As used herein, "Prime Rate" shall mean the floating per annum rate of interest most recently announced by the Lender at Chicago, Illinois as its prime or base rate. A certificate made by an officer of the Lender stating the Prime Rate in effect on any given day, for the purposes hereof, shall be conclusive evidence of the Prime Rate in effect on such day. The Prime Rate is a base reference rate of interest adopted by the Lender as a general benchmark from which the Lender determines the floating interest rates chargeable on various loans to borrowers with varying degrees of creditworthiness and the Borrower acknowledges and agrees that the Lender has made no representations whatsoever that the Prime Rate is the interest rate actually offered by the Lender to borrowers of any particular creditworthiness.

(c) LIBOR Rate. The designation of a LIBOR Loan by the Borrower is subject to the following requirements:

(i) A request for a LIBOR Loan (a "LIBOR Loan Request") must be received by the Lender no later than 2:00 p.m. Chicago, Illinois time two (2) Business Days prior to the first day of the Interest Period on which such LIBOR Loan shall be advanced, shall be irrevocable, and shall state the initial Interest Period and amount of such LIBOR Loan. Each LIBOR Loan will be in an amount not less than Five Hundred Thousand and 00/100 Dollars ($500,000.00) or a higher integral multiple of One Hundred Thousand and 00/100 Dollars ($100,000.00). No more than five (5) separate LIBOR Loans may be outstanding at any time. A request for a LIBOR Loan received by the Lender after 2:00p.m. Chicago, Illinois on any Business Day time will be processed and funded by the Lender on the third Business Day thereafter.

(ii) If pursuant to the LIBOR Loan Request, the initial Interest Period of any LIBOR Loan commences on any day other than the first Business Day of any month, then the initial Interest Period of such LIBOR Loan shall end on the first day of the following calendar month, notwithstanding the Interest Period specified in the LIBOR Loan Request, and the LIBOR Rate for such LIBOR Loan shall be equal to LIBOR for an interest period equal to the length of such partial month, plus the Applicable Margin. Thereafter, each LIBOR Loan shall automatically renew (a "LIBOR Rollover") for the Interest Period specified in the LIBOR Loan Request at the then current LIBOR Rate plus the Applicable Margin unless the Borrower, in a subsequent LIBOR Loan Request received by the Lender no later than 2:00 p.m. Chicago, Illinois time on the second (2nd) Business Day before the expiration of the existing Interest Period, shall elect a different Interest Period or the conversion of all or a portion of the LIBOR Loan to a Prime Loan. The Borrower may not elect a LIBOR Rate, and an Interest Period for a LIBOR Loan shall not automatically renew, with respect to any principal amount which is scheduled to be repaid before the last day of the applicable Interest Period, and any such amounts shall bear interest at the Floating Rate, until repaid.

(iii) "<u>LIBOR</u>" shall mean a rate of interest equal to (A) the per annum rate of interest at which United States dollar deposits in an amount comparable to the amount of the relevant LIBOR Loan and for a period equal to the relevant Interest Period are offered in the London Interbank Eurodollar market at 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period (or three Business Days prior to the commencement of such Interest Period if banks in London, England were not open and dealing in offshore United States dollars on such second preceding Business Day), as displayed in the *Bloomberg Financial Markets* system (or other authoritative source selected by the Lender in its sole discretion), divided by (B) a number determined by subtracting from 1.00 the then stated maximum reserve percentage for determining reserves to be maintained by member banks of the Federal Reserve System for Eurocurrency funding or liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D), such rate to remain fixed for such Interest Period, or as LIBOR is otherwise determined by the Lender in its sole and absolute discretion. The Lender's determination of LIBOR shall be conclusive, absent manifest error.

(iv) "<u>Interest Period</u>" shall mean, with regard to any LIBOR Loan, successive one, two or three month periods, as selected by the Borrower in its LIBOR Loan Request; provided, however, that: (A) each Interest Period occurring after the initial Interest Period of any LIBOR Loan shall commence on the day on which the preceding Interest Period for such LIBOR Loan expires; (B) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day; (C) whenever the first day of any Interest Period occurs on a date for which there is no numerically corresponding date in the month in which such Interest Period terminates, such Interest Period shall end on the last day of such month, unless such day is not a Business Day, in which case the Interest Period shall terminate on the first Business Day of the following month, provided, however, that so long as the LIBOR Rollover remains in effect, all subsequent Interest Periods shall terminate on the date of the month numerically corresponding to the date on which the initial Interest Period commenced; and (D) the final Interest Period for any LIBOR Loan must be such that its expiration occurs on or before the Maturity Date. If at any time an Interest Period expires less than one month before the Maturity Date, such LIBOR Loan shall automatically convert to a Prime Loan on the last day of the then existing Interest Period, without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower.

(v) Notwithstanding anything to the contrary contained herein, the principal balance of any LIBOR Loan may not be prepaid in whole or in part at any time. If, for any reason, a LIBOR Loan is paid prior to the last Business Day of any Interest Period, whether voluntary, involuntary, by reason of acceleration or otherwise, each such prepayment of a LIBOR Loan will be accompanied by the amount of accrued interest on the amount prepaid and any and all costs, expenses, penalties and charges incurred by the Lender as a result of the early termination or breakage of a LIBOR Loan, plus the amount, if any, by which (A) the additional interest which would have been payable during the Interest Period on the LIBOR Loan prepaid had it not been prepaid, exceeds (B) the interest which would have been recoverable by the Lender by placing the amount prepaid on deposit in the domestic certificate of deposit market, the eurodollar deposit market, or other appropriate money market selected by the Lender, for a period starting on the date on which it was prepaid and ending on the last day of the Interest Period for such LIBOR Loan (collectively, the "Make Whole Costs"). The amount of any such loss or expense payable by the Borrower to the Lender under this section shall be determined in the Lender's sole discretion based upon the assumption that the Lender funded its loan commitment for LIBOR Loans in the London Interbank Eurodollar market and using any reasonable attribution or averaging methods which the Lender deems appropriate and practical, provided, however, that the Lender is not obligated to accept a deposit in the London Interbank Eurodollar market in order to charge interest on a LIBOR Loan at the LIBOR Rate.

(vi) If the Lender determines in good faith (which determination shall be conclusive, absent manifest error) prior to the commencement of any Interest Period that (A) the making or maintenance of any LIBOR Loan would violate any applicable law, rule, regulation or directive, whether or not having the force of law, (B) United States dollar deposits in the principal amount, and for periods equal to the Interest Period, of any LIBOR Loan are not available in the London Interbank Eurodollar market in the ordinary course of business, (C) by reason of circumstances affecting the London Interbank Eurodollar market, adequate and fair means do not exist for ascertaining the LIBOR Rate to be applicable to the relevant LIBOR Loan, (D) the LIBOR Rate does not accurately reflect the cost to the Lender of a LIBOR Loan, or (E) an Event of Default (as hereinafter defined) has occurred and is continuing or any event or circumstance exists which, with the giving of notice or passage of time, would constitute an Event of Default, the Lender shall promptly notify the Borrower thereof and, so long as any of the foregoing conditions continue, the Lender will have no obligation to accept an election by the Borrower for a LIBOR Loan, and each existing LIBOR Loan, at the Borrower's option, shall be (1) converted to a Prime Loan on the last Business Day of the then existing Interest Period, or (2) due and payable on the last Business Day of the then existing Interest Period, without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower.

(vii) If, after the date hereof, a Regulatory Change (as hereinafter defined) shall, in the reasonable determination of the Lender, make it unlawful for the Lender to make or maintain any LIBOR Loans, the Lender will have no obligation to accept an election by the Borrower for a LIBOR Loan. In addition, at the Borrower's option, each existing LIBOR Loan shall be immediately (A) converted to a Prime Loan on the last Business Day of the then existing Interest Period or on such earlier date as required by law, or (B) due and payable on the last Business Day of the then existing Interest Period or on such earlier date as required by law, all without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower. As used herein, "Regulatory Change" shall mean the introduction of, or any change in any applicable law, treaty, rule, regulation or guideline or in the interpretation or administration thereof by any governmental authority or any central bank or other fiscal, monetary or other authority having jurisdiction over the Lender or its lending office.

(viii) If any Regulatory Change (whether or not having the force of law) shall (a) impose, modify or deem applicable any assessment, reserve, special deposit or similar requirement against assets held by, or deposits in or for the account of, or loans by, or any other acquisition of funds or disbursements by, the Lender; (b) subject the Lender or any LIBOR Loan to any tax, duty, charge, stamp tax or fee, or change the basis of taxation of payments to the Lender of principal or interest due from the Borrower hereunder (other than a change in the taxation of the overall net income of the Lender); or (c) impose on the Lender any other condition regarding any LIBOR Loan or the Lenders' funding thereof, and the Lender shall determine (which determination shall be conclusive, absent manifest error) that the result of the foregoing is to actually increase the cost to the Lender of making or maintaining any LIBOR Loans or to reduce the amount of principal or interest received by the Lender hereunder on any LIBOR Loan, then the Borrower shall pay to the Lender, on demand, such additional amounts as the Lender shall from time to time determine are sufficient to compensate and indemnify the Lender for such increased costs or reduced amounts (the "LIBOR Indemnification Costs").

2.2 Interest After Default. From and after the Maturity Date or upon the occurrence and during the continuance of an Event of Default, interest shall accrue on the unpaid principal balance during any such period at an annual rate (the "Default Rate") equal to five percent (5.00%) plus the Floating Rate; provided, however, in no event shall the Default Rate exceed the maximum rate permitted by law. The interest accruing under this section shall be immediately due and payable by the Borrower to the holder of this Note upon demand and shall be additional indebtedness evidenced by this Note.

2.3 Interest Calculation. Interest on this Note shall be calculated on the basis of a 360 day year and the actual number of days elapsed in any portion of a month in which interest is due. If any payment to be made by the Borrower hereunder shall become due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

3. INTEREST RESERVE. The sum of Three Million Fifty Thousand and 00/100 Dollars ($3,050,000.00) of the principal of this Note shall not be disbursed directly by the Lender

to the Borrower, but shall be held back by the Lender (the "Interest Reserve"). The Interest Reserve shall only be disbursed by the Lender for the purpose of funding accrued and unpaid interest on this Note as provided in Section 4 hereof, shall not accrue interest until actually disbursed to or for the benefit of the Borrower and, when so disbursed, shall be considered outstanding principal of this Note. Notwithstanding the foregoing, the Lender shall have no obligation to disburse all or any part of the Loan Reserve upon the occurrence and continuation of an Event of Default. Upon the occurrence of an Event of Default, the Lender may use and apply any of the Loan Reserve to cure such Event of Default, as a prepayment of the outstanding principal amount of this Note, or for the funding of accrued and unpaid interest on this Note.

4. PAYMENT TERMS.

4.1 Principal and Interest. Payments of principal and interest due under this Note, if not sooner declared to be due in accordance with the provisions hereof, shall be made as follows:

(a) Commencing on August , 2006, and continuing on the first day of each month thereafter through and including the month in which the Maturity Date occurs, all accrued and unpaid interest on the principal balance of this Note outstanding from time to time shall be due and payable, and which amounts shall be (i) disbursed directly by the Lender from the Loan proceeds up to the amount of the Loan Reserve and which, when advanced, shall constitute outstanding principal under this Note, and (ii) thereafter paid directly by the Borrower from sources other than the proceeds of this Loan. Interest accrued on any LIBOR Loan as of the date of termination, breakage or other disposition shall be due and payable in full on the date of such termination, breakage or disposition.

(b) In the event the Maturity Date is extended to the Extended Maturity Date as provided below, commencing on August 1, 2009 and on the first Business Day of each month thereafter, through and including the Extended Maturity Date, Borrower shall make fixed principal and interest payments in an amount required to fully amortize the amount of the Loan disbursed as of the Maturity Date over a 30 year period. The interest rate used in determining such principal and interest payments shall be a fixed rate per annum equal to the greater of (i) seven percent (7.0%) or (ii) the sum of (X) one and one-quarter percent (1.25%) plus (Y) the yield (converted as necessary to an annual interest rate) on U.S. Treasury Securities having a maturity date closest to the tenth (10) anniversary of the Maturity Date as published in Bloomberg's Financial Markets Commodities News at approximately 8:00 a.m. Chicago time on the second (2^{nd}) Business Day preceding the Maturity Date (or if not so published, Lender, in its sole discretion, shall designate another daily financial or governmental publication of national circulation to be used to determine such yield) plus the corresponding swap spread as published in Bloomberg's Financial Markets Commodities News as of the Maturity Date (or if not so published, Lender in its sole discretion, shall designate another daily financial or governmental publication of national circulation do determine such spread). For purposes of this Section 4.1(b), the term "U.S. Treasury Securities" means actively traded U.S. Treasury bonds, bills and notes, and if more than one issue of U.S. Treasury Securities is scheduled to mature on or about the tenth (10th) anniversary of the Maturity

Date, then to the extent possible, the U.S. Treasury Security maturing most recently prior to such date will be chosen as the basis of the yield.

(c) The unpaid principal balance of this Note, if not sooner paid or declared to be due in accordance with the terms hereof, together with all accrued and unpaid interest thereon and any other amounts due and payable hereunder or under any of the Loan Documents shall be due and payable in full on the Maturity Date or Extended Maturity Date, as applicable.

4.2 Application of Payments. Prior to the occurrence of an Event of Default, all payments and prepayments on account of the indebtedness evidenced by this Note shall be applied as follows: (a) first, to fees, expenses, costs and other similar amounts then due and payable to the Lender, including, without limitation any prepayment premium, exit fee or late charges due hereunder, (b) second, to accrued and unpaid interest on the principal balance of this Note, (c) third, to the payment of principal due in the month in which the payment or prepayment is made, (d) fourth, to any escrows, impounds or other amounts which may then be due and payable under the Loan Documents, (e) fifth, to any other amounts then due the Lender hereunder or under any of the Loan Documents, and (f) last, to the unpaid principal balance of this Note in the inverse order of maturity. Any prepayment on account of the indebtedness evidenced by this Note shall not extend or postpone the due date or reduce the amount of any subsequent monthly payment of principal and interest due hereunder. After an Event of Default has occurred and is continuing, payments may be applied by the Lender to amounts owed hereunder and under the Loan Documents in such order as the Lender shall determine, in its sole discretion.

4.3 Method of Payments. All payments of principal and interest hereunder shall be paid by automatic debit, wire transfer, check or in coin or currency which, at the time or times of payment, is the legal tender for public and private debts in the United States of America and shall be made at such place as the Lender or the legal holder or holders of this Note may from time to time appoint in the payment invoice or otherwise in writing, and in the absence of such appointment, then at the offices of the Lender at 135 South La Salle Street, Suite 1225, Chicago, Illinois 60603. Payment made by check shall be deemed paid on the date the Lender receives such check; provided, however, that if such check is subsequently returned to the Lender unpaid due to insufficient funds or otherwise, the payment shall not be deemed to have been made and shall continue to bear interest until collected. Notwithstanding the foregoing, the final payment due under this Note must be made by wire transfer or other immediately available funds. Interest, principal payments and any fees and expenses owed the Lender from time to time will be deducted by the Lender automatically on the due date from the Borrower's account with the Lender, as designated in writing by the Borrower. The Borrower will maintain sufficient funds in the account on the dates the Lender enters debits authorized by this Note. If there are insufficient funds in the account on the date the Lender enters any debit authorized by this Note, the debit will be reversed. The Borrower may terminate this direct debt arrangement at any time by sending written notice to the Lender at the address specified above.

4.4 Late Charge. If any payment of interest or principal due hereunder is not made within five days after such payment is due in accordance with the terms hereof, then, in addition to the payment of the amount so due, the Borrower shall pay to the Lender a "late charge" of five cents for each whole dollar so overdue to defray part of the cost of collection and handling such late payment. The Borrower agrees that the damages to be sustained by the holder hereof for the detriment caused by any late payment are extremely difficult and impractical to ascertain, and that the amount of five cents for each one dollar due is a reasonable estimate of such damages, does not constitute interest, and is not a penalty.

4.5 Principal Prepayments. The portion of this Note bearing interest at the Floating Rate may be prepaid, either in whole or in part, without penalty or premium, at any time and from time to time upon fourteen (14) days prior notice to the Lender. The portion of this Note bearing interest at the LIBOR Rate may be prepaid only on the last day of an Interest Period; provided, however, that the Borrower may prepay a LIBOR Loan prior to such day so long as such prepayment is accompanied by a simultaneous payment of the Make Whole Costs described in Section 2.1(c)(v) above, plus accrued interest on the LIBOR Loan being prepaid through the date of prepayment.

4.6 Loan Fees. In consideration of the Lender's agreement to make the Loan, the Borrower shall pay to the Lender a non-refundable fee in the amount of Three Hundred Fifteen Thousand and 00/100 Dollars ($315,000.00), which shall be due and payable in full as a condition precedent to the disbursement of proceeds under this Note.

5. SECURITY. This Note is secured by that certain: (a) Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of December 14, 2005, executed by the Borrower to and for the benefit of the Lender and recorded as Instrument No. 2005-03628173 in the Real Property Records of Dallas County, Texas, as amended by that certain Modification of Loan Documents dated of even date herewith (the "Modification Agreement"), executed by the Borrower, the Lender and Opus West Corporation, a Minnesota corporation (the "Guarantor") and recorded or to be recorded in said Real Property Records (as so modified, the "Deed of Trust"), creating a first mortgage lien on certain real property (the "Premises") legally described in Exhibit "A" attached to the Deed of Trust; (b) Assignment of Rents and Leases dated as of December 14, 2005, executed by the Borrower to and for the benefit of the Lender and recorded as Instrument No. 2005-03628174 in the Real Property Records of Dallas County, Texas, as amended by the Modification Agreement (as so modified, the "Assignment of Rents"); (c) Guaranty of Payment dated as of even date herewith, executed by the Guarantor to and for the benefit of the Lender (the "Guaranty"); and (d) Environmental Indemnity Agreement dated of even date herewith, jointly and severally executed by the Borrower and the Guarantor to and for the benefit of the Lender (the "Indemnity Agreement"; the Loan Agreement, the Deed of Trust, the Assignment of Rents, the Guaranty, the Indemnity Agreement, the Modification Agreement and any and all other documents now or hereafter given to evidence or secure payment of this Note or delivered to induce the Lender to disburse the proceeds of the Loan, as such documents may hereafter be amended, restated or replaced from time to time, are hereinafter collectively referred to as the "Loan Documents"). Reference is hereby made to the Loan Documents (which are incorporated herein by reference as fully and with the same effect as if set forth herein at length) for a statement of the covenants and agreements contained therein, a statement of the rights, remedies, and security afforded thereby, and all matters therein contained.

6. EVENTS OF DEFAULT. The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Note:

(a) the failure by the Borrower to pay (i) any installment of principal or interest payable pursuant to this within five (5) days after the date when due, or (ii) any other amount payable to the Lender under this Note, the Deed of Trust or any of the other Loan Documents within five (5) days after the date when any such payment is due in accordance with the terms hereof or thereof; or

(b) the occurrence of any "Event of Default" under the Loan Agreement, Deed of Trust or any of the other Loan Documents.

7. REMEDIES. At the election of the holder hereof, and without notice, the principal balance remaining unpaid under this Note, and all unpaid interest accrued thereon and any other amounts due hereunder, shall be and become immediately due and payable in full upon the occurrence of any Event of Default. Failure to exercise this option shall not constitute a waiver of the right to exercise same in the event of any subsequent Event of Default. No holder hereof shall, by any act of omission or commission, be deemed to waive any of its rights, remedies or powers hereunder or otherwise unless such waiver is in writing and signed by the holder hereof, and then only to the extent specifically set forth therein. The rights, remedies and powers of the holder hereof, as provided in this Note, the Deed of Trust and in all of the other Loan Documents are cumulative and concurrent, and may be pursued singly, successively or together against the Borrower, any Guarantor hereof, the Premises and any other security given at any time to secure the repayment hereof, all at the sole discretion of the holder hereof. If any suit or action is instituted or attorneys are employed to collect this Note or any part hereof, the Borrower promises and agrees to pay all costs of collection, including reasonable attorneys' fees and court costs.

8. COVENANTS AND WAIVERS. The Borrower and all others who now or may at any time become liable for all or any part of the obligations evidenced hereby, expressly agree hereby to be jointly and severally bound, and jointly and severally: (i) waive and renounce any and all homestead, redemption and exemption rights and the benefit of all valuation and appraisement privileges against the indebtedness evidenced by this Note or by any extension or renewal hereof; (ii) waive presentment and demand for payment, notices of nonpayment and of dishonor, protest of dishonor, and notice of protest; (iii) except as expressly provided in the Loan Documents, waive any and all notices in connection with the delivery and acceptance hereof and all other notices in connection with the performance, default, or enforcement of the payment hereof or hereunder; (iv) waive any and all lack of diligence and delays in the enforcement of the payment hereof; (v) agree that the liability of the Borrower and each guarantor, endorser or obligor shall be unconditional and without regard to the liability of any other person or entity for the payment hereof, and shall not in any manner be affected by any indulgence or forbearance granted or consented to by the Lender to any of them with respect hereto; (vi) consent to any and all extensions of time, renewals, waivers, or modifications that may be granted by the Lender with respect to the payment or other provisions hereof, and to the release of any security at any time given for the payment hereof, or any part thereof, with or without substitution, and to the release of any person or entity liable for the payment hereof; and (vii) consent to the addition of

any and all other makers, endorsers, guarantors, and other obligors for the payment hereof, and to the acceptance of any and all other security for the payment hereof, and agree that the addition of any such makers, endorsers, guarantors or other obligors, or security shall not affect the liability of the Borrower, any guarantor and all others now liable for all or any part of the obligations evidenced hereby. This provision is a material inducement for the Lender making the Loan to the Borrower.

9. GENERAL AGREEMENTS.

9.1 Business Purpose Loan. The Loan is a business loan which comes within the purview of Section 205/4, paragraph (1)(c) of Chapter 815 of the Illinois Compiled Statutes, as amended. The Borrower agrees that the Loan evidenced by this Note is an exempted transaction under the Truth In Lending Act, 15 U.S.C., §1601, et seq.

9.2 Time. Time is of the essence hereof.

9.3 Governing Law. This Note is governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the statutes, laws and decisions of the State of Illinois, without regard to its conflict of laws provisions.

9.4 Amendments. This Note may not be changed or amended orally but only by an instrument in writing signed by the party against whom enforcement of the change or amendment is sought.

9.5 No Joint Venture. The Lender shall not be construed for any purpose to be a partner, joint venturer, agent or associate of the Borrower or of any lessee, operator, concessionaire or licensee of the Borrower in the conduct of its business, and by the execution of this Note, the Borrower agrees to indemnify, defend, and hold the Lender harmless from and against any and all damages, costs, expenses and liability that may be incurred by the Lender as a result of a claim that the Lender is such partner, joint venturer, agent or associate.

9.6 Disbursement. This Note has been made and delivered at Chicago, Illinois and all funds disbursed to or for the benefit of the Borrower will be disbursed in Chicago, Illinois.

9.7 Joint and Several Obligations. If this Note is executed by more than one party, the obligations and liabilities of each Borrower under this Note shall be joint and several and shall be binding upon and enforceable against each Borrower and their respective successors and assigns. This Note shall inure to the benefit of and may be enforced by the Lender and its successors and assigns.

9.8 Severable Loan Provisions. If any provision of this Note is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Borrower and the Lender shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

9.9 Interest Limitation. If the interest provisions herein or in any of the Loan Documents shall result, at any time during the Loan, in an effective rate of interest which, for any month, exceeds the limit of usury or other laws applicable to the Loan, all sums in excess of those lawfully collectible as interest of the period in question shall, without further agreement or notice between or by any party hereto, be applied upon principal immediately upon receipt of such monies by the Lender, with the same force and effect as though the payer has specifically designated such extra sums to be so applied to principal and the Lender had agreed to accept such extra payment(s) as a premium-free prepayment. Notwithstanding the foregoing, however, the Lender may at any time and from time to time elect by notice in writing to the Borrower to reduce or limit the collection to such sums which, when added to the said first-stated interest, shall not result in any payments toward principal in accordance with the requirements of the preceding sentence. In no event shall any agreed to or actual exaction as consideration for this Loan transcend the limits imposed or provided by the law applicable to this transaction or the makers hereof in the jurisdiction in which the Premises are located for the use or detention of money or for forbearance in seeking its collection.

9.10 Assignability. The Lender may at any time assign its rights in this Note and the Loan Documents, or any part thereof and transfer its rights in any or all of the collateral, and the Lender thereafter shall be relieved from all liability with respect to such collateral. In addition, the Lender may at any time sell one or more participations in the Note. The Borrower may not assign its interest in this Note, or any other agreement with the Lender or any portion thereof, either voluntarily or by operation of law, without the prior written consent of the Lender

10. NOTICES. All notices required under this Note will be in writing and will be transmitted in the manner and to the addresses required by the Loan Agreement or to such other addresses as the Lender and the Borrower may specify from time to time in writing.

11. CONSENT TO JURISDICTION. TO INDUCE THE LENDER TO ACCEPT THIS NOTE, THE BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO THE LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS NOTE WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. THE BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON THE BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE BORROWER AT THE ADDRESS STATED IN THE DEED OF TRUST AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

12. WAIVER OF JURY TRIAL. THE BORROWER AND THE LENDER (BY ACCEPTANCE OF THIS NOTE), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER

THIS NOTE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS NOTE OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS NOTE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST THE LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

13. WAIVER OF DEFENSES. OTHER THAN CLAIMS BASED UPON THE FAILURE OF THE LENDER TO ACT IN A COMMERCIALLY REASONABLEMANNER, THE BORROWER WAIVES EVERY PRESENT AND FUTURE DEFENSE (OTHER THAN THE DEFENSE OF PAYMENT IN FULL), CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH THE BORROWER MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY THE LENDER IN ENFORCING THIS NOTE OR ANY OF THE LOAN DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER GRANTING ANY FINANCIAL ACCOMMODATION TO THE BORROWER.

14. CUSTOMER IDENTIFICATION - USA PATRIOT ACT NOTICE; OFAC AND BANK SECRECY ACT. The Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and the Lender's policies and practices, the Lender is required to obtain, verify and record certain information and documentation that identifies the Borrower, which information includes the name and address of the Borrower and such other information that will allow the Lender to identify the Borrower in accordance with the Act. In addition, the Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls the Borrower or any subsidiary of the Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

15. EXPENSES AND INDEMNIFICATION. The Borrower shall pay all costs and expenses incurred by the Lender in connection with the preparation of this Note and the Loan Documents, including, without limitation, reasonable attorneys' fees and time charges of attorneys who may be employees of the Lender or any affiliate or parent of the Lender. The Borrower shall pay any and all stamp and other taxes, UCC search fees, filing fees and other costs and expenses in connection with the execution and delivery of this Note and the other instruments and documents to be delivered hereunder, and agrees to save the Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such costs and expenses. The Borrower hereby authorizes the Bank to charge any account of the Borrower with the Bank for all sums due under this section. The Borrower also agrees to defend (with counsel satisfactory to the Lender), protect, indemnify and hold harmless the Lender, any parent corporation, affiliated corporation or subsidiary of the Lender,

and each of their respective officers, directors, employees, attorneys and agents (each an "Indemnified Party") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and distributions of any kind or nature (including, without limitation, the disbursements and the reasonable fees of counsel for each Indemnified Party thereto, which shall also include, without limitation, attorneys' fees and time charges of attorneys who may be employees of the Lender, any parent corporation or affiliated corporation of the Lender), which may be imposed on, incurred by, or asserted against, any Indemnified Party (whether direct, indirect or consequential and whether based on any federal, state or local laws or regulations, including, without limitation, securities, environmental laws and commercial laws and regulations, under common law or in equity, or based on contract or otherwise) in any manner relating to or arising out of this Note or any of the Loan Documents, or any act, event or transaction related or attendant thereto, the preparation, execution and delivery of this Note and the Loan Documents, the making or issuance and management of the Loan, the use or intended use of the proceeds of this Note and the enforcement of the Lender's rights and remedies under this Note, the Loan Documents any other instruments and documents delivered hereunder, or under any other agreement between the Borrower and the Lender; provided, however, that the Borrower shall not have any obligations hereunder to any Indemnified Party with respect to matters caused by or resulting from the willful misconduct or gross negligence of such Indemnified Party. To the extent that the undertaking to indemnify set forth in the preceding sentence may be unenforceable because it violates any law or public policy, the Borrower shall satisfy such undertaking to the maximum extent permitted by applicable law. Any liability, obligation, loss, damage, penalty, cost or expense covered by this indemnity shall be paid to each Indemnified Party on demand, and failing prompt payment, together with interest thereon at the Default Rate from the date incurred by each Indemnified Party until paid by the Borrower, shall be added to the obligations of the Borrower evidenced by this Note and secured by the collateral securing this Note. The provisions of this section shall survive the satisfaction and payment of this Note.

16. EXTENSION OF MATURITY DATE. Subject to the satisfaction of the following conditions, Borrower shall have the right to extend the Maturity Date for one year to the Extended Maturity Date by delivering to Lender written notice of Borrower's election to extend on or before May 15, 2009 (the "Extension Notice"):

(a) No Event of Default shall have occurred as of the date of the Extension Notice or the Maturity Date;

(b) Concurrently with delivery of the Extension Notice, Borrower pays Lender a "Loan Extension Fee" in an amount of $57,312.50;

(c) The Premises has a Debt Coverage Ratio of 1.10 to 1.00. Debt Coverage Ratio shall mean for the three month period preceding the Maturity Date ("Period") the ratio of Operating Cash Flow to Debt Service;

(i) As used herein, "Operating Cash Flow" shall mean all rental income received by Borrower from the ownership and operation of the Premises (excluding tenant security deposits and rent paid during such month by any tenant for more than one month of rental obligations during the Period commencing on the date of Lender's determination of the Debt Coverage Ratio (the "Determination Date") pursuant to signed leases under which the tenants have taken possession as of the Determination Date, less the sum of all costs, taxes, expenses and disbursements of every kind, nature or description payable during such Period in connection with management, operation, maintenance and repair of the Premises and of the personal property, fixtures, machinery, equipment, systems and apparatus located therein or used in connection therewith, but excluding (i) non-cash expenses, such as depreciation and amortization costs, (ii) state and federal income taxes, (iii) funded capital expenditures and (iv) principal and interest payable on the Loan ("Operating Expenses"). In determining Operating Cash Flow, such items as (a) extraordinary items of income, such as those resulting from casualty or condemnation or lease termination payments of tenants due for any periods other than the month in which the determination of Operating Cash Flow is made, shall be deducted from income and (b) real estate taxes and insurance premiums shall be treated as expenses to the extent of an annualized amount based upon the amount of the most recent bill for real estate taxes and insurance premiums (regardless of whether the same shall have been paid or have become due and payable during such Period).

(ii) As used herein, "Debt Service" shall mean the principal and interest payments due and payable during the Year following the Determination Date assuming a loan amount of $45,850,000.00 amortized over 30 years, with a fixed interest rate per annum equal to the greater of (a) seven percent (7%) and (b) the sum of (i) one and one-quarter percent (1.25%) plus (ii) the yield (converted as necessary to an annual interest rate) on U.S. Treasury Securities having a maturity date closest to the tenth (10^{th}) anniversary of the Determination Date as published in Bloomberg's Financial Markets Commodities News at approximately 8:00 a.m. Chicago time on the second (2^{nd}) Business Day preceding the Determination Date (or if not so published, Lender, in its sole discretion, shall designate another daily financial or governmental publication of national circulation to be used to determine such yield) plus the corresponding swap spread as published in Bloomberg's Financial Markets Commodities News as of the Determination Date (or if not so published, Lender in its sole discretion, shall designate another daily financial or governmental publication of national circulation do determine such spread). For purposes of this Section 16, the term "U.S. Treasury Securities" means actively traded U.S. Treasury bonds, bills and notes, and if more than one issue of U.S. Treasury Securities is scheduled to mature on or about the tenth (10^{th}) anniversary of the Determination Date, then to the extent possible, the U.S. Treasury Security maturing most recently prior to such date will be chosen as the basis of the yield.

(iii) Operating Cash Flow and Debt Service shall be calculated by Lender based on the financial information provided to Lender by Borrower and independently verified by Lender and the calculations so verified shall be final and binding upon Borrower and Lender absent manifest error.

(d) The Borrower shall have delivered to Lender, together with the Extension Notice, a certificate which shall be deemed remade as of the original Maturity Date executed by an authorized officer of the Borrower having actual knowledge sufficient to make such certification, representing and warranting to the Lender that (a) the Loan Documents are in full force and effect, (b) the Loan Documents constitute the valid and binding obligations of the Borrower enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency and similar laws relating to creditors' rights generally, (c) the Borrower does not have any offsets, counterclaims or defenses with respect to the payment of the Loan or to the Loan Documents or the Borrower's obligations and liabilities under the Loan Documents, and (d) all of the representations and warranties contained in the Loan Document, or otherwise made with respect to the Loan, remain true and correct in all material respects;

(e) A final Certificate of Occupancy has been issued by the applicable governmental authority for all residential units within the Premises;

(f) A final Certificate of Occupancy has been issued by the applicable governmental authority for that portion of the retail space within the Premises which is subject to an executed lease; and

(g) To the extent the balance of the retail space within the Premises is not subject to an executed lease, the "shell portion" of such retail space has been completed and a final Certificate of Occupancy has been issued with respect to such portion of the retail space to the extent that the applicable governmental authority issues final Certificates of Occupancy for the "shell portion" of building improvements prior to completion of interior finish and Borrower is not required by applicable law to complete such interior finish prior to occupancy.

[signature page follows]

NO ORAL AGREEMENTS. **THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

BORROWER HEREBY ACKNOWLEDGES AND AGREES THAT THIS NOTE CONTAINS CERTAIN INDEMNIFICATION PROVISIONS (INCLUDING, WITHOUT LIMITATION, THOSE CONTAINED IN SECTION 15 HEREOF) WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY BORROWER OF LENDER FROM CLAIMS OR LOSSES ARISING AS A RESULT OF THE LENDER'S OWN NEGLIGENCE.

IN WITNESS WHEREOF, the Borrower has executed and delivered this Promissory Note as of the day and year first above written.

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

ATTACHMENT 6

6: 1: 2106-00805 UBW

200600243612
15 PGS

After recording, return to:

Michael D. Rothstein, Esq.
Schwartz Cooper Chartered
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601

This space reserved for Recorders use only.

MODIFICATION OF LOAN DOCUMENTS

THIS MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 30th day of June, 2006, by and among **BROADSTONE GALLERIA, L.P.**, a Delaware limited partnership ("Borrower") and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Lender").

RECITALS:

A. Borrower previously executed that certain Promissory Note dated as of December 14, 2005, in favor of Lender in the stated principal amount of up to $6,375,000.00 (the "Original Note"). Borrower and Lender also executed that certain Holdback Agreement dated of even date with the Original Note (the "Holdback Agreement").

B. The Original Note is secured by, among other things, (i) a Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated December 14, 2005, executed by Borrower in favor of William D. Cleveland, as Trustee, recorded as Instrument No. 2005-03628173 in the Real Property Records of Dallas County, Texas (the "Deed of Trust"), covering certain real and other property situated in Dallas County, Texas, as more particularly described therein (the "Property"), and (ii) an Assignment of Rents and Leases dated as of December 14, 2005, executed by Borrower in favor of Lender, recorded as Instrument No. 2005-03628174 in the Real Property Records of Dallas County, Texas (the "Assignment").

C. Borrower has requested that Lender agree to modify the Original Note to make additional funds available to Borrower (the "Additional Loan Funds") to finance the development of, and construction of additional improvements on, the Property. Borrower's obligations in respect of the Original Loan and the Additional Loan Funds shall be evidenced by, among other things, (i) an Amended and Restated Promissory Note (the "Amended and Restated Note"), dated of even date herewith, from Borrower to Lender, in the stated principal amount of $45,850,000.00, which Amended and Restated Note will amend and restate the Original Note in its entirety (the Amended and Restated Note, as the same may hereafter be renewed, extended, supplemented, increased or modified from time to time, and any other notes given in substitution therefor, or in modification, renewal, or extension thereof, in whole or in part, are herein called, collectively, whether one or more, the "Note"), and (ii) a Construction Loan Agreement (the "Loan Agreement"), dated of even date herewith, executed by Borrower and Lender, which Loan Agreement will amend and restate in its entirety the Holdback Agreement. Capitalized terms used herein but not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Agreement.

D. The Original Loan and the Additional Loan Funds are referred to herein, together, as the "Loan".

E. The Loan is further secured by a Guaranty of Payment dated as of the date hereof, from Guarantor to Lender (the "Guaranty").

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Amendments to Deed of Trust**.

1.1 Commencing on the date of this Amendment, the following capitalized terms shall have the meanings set forth below when used herein or in the Deed of Trust, and to the extent such capitalized terms are also defined in the Deed of Trust, such definitions are amended by this Amendment:

"Holdback Agreement" means the Loan Agreement.

"Loan" means a construction loan in the amount of up to $45,850,000.

"Loan Agreement" means that certain Construction Loan Agreement dated as of June 30, 2006, executed by Borrower and Lender.

"Note" means that certain Amended and Restated Promissory Note dated as of June 30, 2006, executed by Borrower to and for the benefit of Lender, in the amount of $45,850,000, which amends and restates in its entirety that certain Promissory Note dated as of December 14, 2005, executed by Borrower to Lender in the amount of $6,375,000.

1.2 Section 2 of the Deed of Trust is hereby amended to add the following as a new paragraph (n) thereto:

"(n) promptly repair, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed to a condition substantially similar to the condition immediately prior to such damage or destruction, whether or not proceeds of insurance are available or sufficient for the purpose;"

1.3 Section 6(c) of the Deed of Trust is hereby amended and restated in its entirety as follows:

"(c) In the event of loss, Borrower shall give prompt notice thereof to Lender, who, if such loss exceeds the lesser of ten percent (10%) of the Indebtedness or Five Hundred Thousand Dollars ($500,000.00) ("Threshold"), shall have the sole and absolute right to make proof of loss. If such loss exceeds the Threshold or if such loss is equal to or less than the Threshold and the conditions set forth in clauses (i), (ii) and (iii) of the immediately succeeding sentence are not satisfied, then Lender, solely and directly shall receive such payment for loss from each insurance company concerned. If and only if (i) such loss is equal to or less than the Threshold, (ii) no Event of Default or event that with the passage of time, the giving of notice or both would constitute an Event of Default then exists, and (iii) Lender reasonably determines that the work required to complete the repair or restoration of the Premises necessitated by such loss can be completed no later than six (6) months prior to the Maturity Date, then Lender shall endorse to Borrower any such payment and Borrower may collect such payment directly. Lender shall have the right, at its option and in its sole discretion, to apply any insurance proceeds received by Lender pursuant to the terms of this paragraph, after the payment of all of Lender's expenses, either (i) on account of the Indebtedness, irrespective of whether such principal balance is then due and payable, whereupon Lender may declare the whole of the balance of Indebtedness including Make Whole Costs (as defined in the Note) to be due and payable, or (ii) to the restoration or repair of the property damaged as provided in subparagraph (d) below; provided, however, that Lender hereby agrees to permit the application of such proceeds to the restoration or repair of the damaged property, subject to the provisions of subparagraph (d) below, if (i) Lender has received satisfactory evidence that such restoration or repair shall be completed no later than the date that is six (6) months prior to the Maturity Date, (ii) no Event of Default, or event that with the passage of time, the giving of notice or both would constitute an Event of Default, then exists and (iii) if the Maturity Date has been extended pursuant to the terms of the Note, after giving effect to any Leases that may be terminated due to the casualty (and to any proceeds payable pursuant to any business interruptions insurance policy maintained by Borrower) the Premises continues to maintain a Debt Coverage Ratio (as defined in the Note) of at least 1.10 to 1.00. If insurance proceeds are made available to Borrower by Lender as hereinafter provided, Borrower shall repair, restore or rebuild the damaged or destroyed portion of the Premises so that the condition and value of the Premises are substantially the same as the condition and value of the Premises prior to being damaged or destroyed. Any insurance proceeds applied on account of the unpaid principal balance of the Note shall be subject to the Make Whole Costs described in the Note. In the event of foreclosure of this Instrument, all right, title and interest of Borrower in and to any insurance policies then in force shall pass to the purchaser at the foreclosure sale."

1.4 Section 6 of the Deed of Trust is further modified to add the following as a new subparagraph (d) thereto:

"(d) If insurance proceeds are made available by Lender to Borrower, Borrower shall comply with the following conditions:

(i) Before commencing to repair, restore or rebuild following damage to, or destruction of, all or a portion of the Premises, whether by fire or other casualty, Borrower shall obtain from Lender its approval of all site and building plans and specifications pertaining to such repair, restoration or rebuilding (which approval of Lender shall not be unreasonably withheld or delayed if such plans and specifications are substantially the same as those approved by Lender pursuant to the Loan Agreement).

(ii) Prior to each payment or application of any insurance proceeds to the repair or restoration of the improvements upon the Premises to the extent permitted in subparagraph (c) above, Lender shall be satisfied as to the following:

(1) no Event of Default or any event which, with the passage of time or giving of notice would constitute an Event of Default, has occurred;

(2) either such Improvements have been fully restored, or the expenditure of money as may be received from such insurance proceeds will be sufficient to repair, restore or rebuild the Premises, free and clear of all liens, claims and encumbrances, except the lien of this Instrument and the Permitted Exceptions, or, if such insurance proceeds shall be insufficient to repair, restore and rebuild the Premises, Borrower has deposited with Lender such amount of money which, together with the insurance proceeds shall be sufficient to restore, repair and rebuild the Premises; and

(3) prior to each disbursement of any such proceeds, Lender shall be furnished with a statement of Lender's architect (the cost of which shall be borne by Borrower), certifying the extent of the repair and restoration completed to the date thereof, and that such repairs, restoration, and rebuilding have been performed to date in conformity with the plans and specifications approved by Lender and with all statutes, regulations or ordinances (including building and zoning ordinances) affecting the Premises; and Lender shall be furnished with appropriate evidence of payment for labor or materials furnished to the Premises, and total or partial lien waivers substantiating such payments.

If Borrower shall fail to restore, repair or rebuild the Improvements within a time deemed reasonably satisfactory by Lender, then Lender, at its option, may (i) commence and perform all necessary acts to restore, repair or rebuild the said Improvements for or on behalf of Borrower, or (ii) declare an Event of Default. If insurance proceeds shall exceed the amount necessary to complete the repair, restoration or rebuilding of the Improvements, such excess shall be applied on account of the Indebtedness irrespective of whether such Indebtedness is then due and payable without payment of any premium or penalty."

1.5 Section 13(j)(v) of the Deed of Trust is hereby amended and restated as follows: (v) Borrower's organizational identification number is DE 4066055.

1.6 Section 18(a) of the Deed of Trust is hereby amended and restated in its entirety as follows:

"Lender may declare the entire Indebtedness, including the then unpaid principal balance on the Notes, the accrued but unpaid interest thereon, court costs and attorneys' fees hereunder immediately due and payable, without notice, demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration, or any other notice or any other action (ALL OF WHICH BORROWER HEREBY EXPRESSLY WAIVES AND RELINQUISHES), whereupon the same shall become immediately due and payable. Additionally, Lender shall not be required to make any further advances on the Note or other Loan Documents upon the occurrence of an Event of Default or an event which, with the giving of notice or passing of time or both, would constitute an Event of Default."

1.7 Section 18(c) of the Deed of Trust is hereby amended and restated in its entirety as follows:

"Lender may request Trustee to proceed with foreclosure under the power of sale, which is hereby conferred, such foreclosure to be accomplished as set forth in this Instrument. Trustee is hereby authorized and empowered, and it shall be Trustee's special duty, upon such request by Lender to sell the Premises, or any part thereof, for cash at a public auction in accordance with the requirements of the Act."

1.8 The following is hereby inserted at the end of Section 18 of the Deed of Trust:

"(m) At any time during the bidding, the Trustee may require a bidding party (i) to disclose its full name, state and city of residence, occupation, and specific business office location, and the name and address of the principal the bidding party is representing (if applicable), and (ii) to demonstrate reasonable evidence of the bidding party's financial ability (or, if applicable, the financial ability of the principal of such bidding party), as a condition to the bidding party submitting bids at the foreclosure sale. If any such bidding party (the "Questioned Bidder") declines to comply with the Trustee's requirement in this regard, or if such Questioned Bidder (or, if applicable, the principal of such bidding party) to be inadequate, then the Trustee may continue the bidding with reservation; and in such event (A) the Trustee shall be authorized to caution the Questioned Bidder concerning the legal obligations to be incurred in submitting bids, and (B) if the Questioned Bidder is not the highest bidder at the sale, or if having been the highest bidder the Questioned Bidder fails to deliver the cash purchase price payment promptly to the Trustee, all bids by the Questioned Bidder shall be null and void. The

Trustee may, in Trustee's sole and absolute discretion, determine that a credit bid may be in the best interest of Borrower and Lender, and elect to sell the Premises for credit or for a combination of cash and credit; provided, however that the Trustee shall have no obligation to accept any bid except an all cash bid. In the event the Trustee requires a cash bid and cash is not delivered within a reasonable time after conclusion of the bidding process, as specified by the Trustee, but in no event later than 3:45 local time on the day of sale, then said contingent sale shall be null and void, the bidding process may be recommenced, and any subsequent bids or sale shall be made as if no prior bids were made or accepted.

(n) In addition to the rights and powers of sale granted under the subsection, if default is made in the payment of any installment of the Indebtedness, Lender may, at Lender's option, at once or at any time thereafter while any matured installment remains unpaid, without declaring the entire Indebtedness to be due and payable, orally or in writing direct Trustee to enforce this trust and to sell the Premises subject to such unmatured Indebtedness and to the rights, powers, liens, security interest, and assignments securing or providing recourse for payment of such unmatured Indebtedness, in the same manner, all as provided in the preceding provisions of this subsection. Sales made without maturing the Indebtedness may be made hereunder whenever there is a default in the payment of any installment of the Indebtedness, without exhausting the power of sale granted hereby, and without affecting in any way the power of sale granted under this subsection, the unmatured balance of the Indebtedness or the rights, powers, liens, security interests, and assignments securing or providing recourse for payment of the Indebtedness.

(o) Sale of a part of the Premises shall not exhaust the power of sale, but sales may be made from time to time until the Indebtedness is paid, performed and discharged in full. It is intended by each of the foregoing provisions of this subsection that Trustee may, after any request or direction by Lender, sell not only the Real Estate and the Improvements, but also the fixtures and personalty and other interests constituting a part of the Premises or any part thereof, along with the Real Estate and the Improvements or any part thereof, as a unit and as a part of a single sale, or may sell at any time or from time to time any part or parts of the Premises separately from the remainder of the Premises.

(p) In the event an interest in any of the Premises is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale, Borrower agrees as follows: notwithstanding the provisions of Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Borrower agrees that Lender shall be entitled to seek a deficiency judgment from Borrower and any other party obligated on the Note equal to the difference between the amount owing on the Note and the amount for which the Premises was sold pursuant to judicial or nonjudicial foreclosure sale. Borrower expressly recognizes that this section constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit Borrower and other persons against whom recovery of deficiencies is sought or Guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Premises as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Borrower further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Premises for purposes of calculating deficiencies owed by Borrower, Guarantor, and others against whom recovery of a deficiency is sought.

(q) Alternatively, in the event the waiver provided for in Subsections 18(q) above is determined by a court of competent jurisdiction to be unenforceable, the following shall be the basis for the finder of fact's determination of the fair market value of the Premises as of the date of the foreclosure sale in proceedings governed by Section 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time): (i) the Premises shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Premises will be repaired or improved in any manner before a resale of the Premises after foreclosure; (ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Premises for cash promptly (but no later than twelve (12) months) following the foreclosure sale; (iii) all reasonable closing costs customarily borne by the seller in commercial real estate transactions should be deducted from the gross fair market value of the Premises, including, without limitation, brokerage commissions, title insurance, a survey of the Premises, tax prorations, attorneys' fees, and marketing costs; (iv) the gross fair market value of the Premises shall be further discounted to account for any estimated holding costs associated with maintaining the Premises pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in (iii) above), and other maintenance, operational and ownership expenses; and (v) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Premises must be given by persons having at least five (5) years experience in appraising property similar to the Premises and who have conducted and prepared a complete written appraisal of the Premises taking into consideration the factors set forth above."

1.9 Section 30 of the Deed of Trust is hereby amended and restated in its entirety as follows:

30. "Financial Statements. Borrower represents and warrants that the financial statements for Borrower and the Premises previously submitted to Lender are true, complete and correct in all material respects, disclose all actual and contingent liabilities of Borrower or relating to the Premises and do not contain any untrue statement of a material fact or omit to state a fact material to such financial statements. No material adverse change has occurred in the financial condition of Borrower or the Premises from the dates of said financial statements until the date hereof. Borrower shall furnish to Lender such financial information regarding Borrower, its constituent partners or members, as the case may be, and the Premises as Lender may from time to time reasonably request and as are otherwise required pursuant to the terms of the Loan Agreement."

1.10 The Deed of Trust is further modified to delete Section 37(o) thereof and to amend and restate Section 37(p) thereof as follows:

"(p) Future Advances; Construction Deed of Trust. This Instrument constitutes a "construction mortgage" as defined in Section 9.334 of the Code to the extent that it secures an obligation incurred for the construction of the improvements on the Premises, including the acquisition cost of the Real Estate. This Instrument is given to secure not only the existing Indebtedness, but also future Indebtedness in an amount up to $45,850,000.00, including future advances, whether such advances are obligatory or are to be made at the option of Lender, or otherwise, to the same extent as if such future Indebtedness and advances were made on the date of the execution of this Instrument, and also to secure all other sums or amounts that may be added to the Indebtedness pursuant to the terms of this Instrument, it being contemplated by Lender and Borrower that Borrower is or will become indebted to Lender with respect to such future advances and that all of such future advances shall be deemed a part of the Indebtedness. Notwithstanding anything to the contrary herein contained, any sum or amount which may, pursuant to the terms hereof, be added to the Indebtedness, shall, at the option of Lender, be deemed a "future advance" within the meaning of this Section."

1.11 The following is hereby inserted in the Deed of Trust immediately prior to Borrower's signature thereto:

"BORROWER HEREBY ACKNOWLEDGES AND AGREES THAT THIS INSTRUMENT CONTAINS CERTAIN INDEMNIFICATION PROVISIONS WHICH, IN CERTAIN CIRCUMSTANCES, COULD INCLUDE AN INDEMNIFICATION BY BORROWER OF LENDER AND TRUSTEE FROM CLAIMS OR LOSSES ARISING AS A RESULT OF THE LENDER'S OR TRUSTEE'S OWN NEGLIGENCE."

2. **Amendment to Assignment**. The Assignment is hereby modified to provide that it secures

2.1 Payment by Borrower when due of (i) the indebtedness evidenced by the Note and any and all renewals, extensions, replacements, amendments, modifications and refinancings thereof; (ii) any and all other indebtedness and obligations that may be due and owing to Lender by Borrower under or with respect to the Loan Documents (as defined in the Loan Agreement); and (iii) all costs and expenses paid or incurred by Lender in enforcing its rights under the Assignment, including without limitation, court costs and reasonable attorneys' fees; and

2.2 Observance and performance by Borrower of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Borrower or any other obligor to or benefiting Lender which are evidenced or secured by or otherwise provided in the Note, the Assignment or any of the other Loan Documents, together with all amendments and modifications thereof.

3. **Representations and Warranties of Borrower**. Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Loan Agreement, the Deed of Trust and the other Loan Documents are true and correct as of the date hereof.

(b) There is currently no Event of Default (as defined in the Trust) under the Note, the Deed of Trust or the other Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Deed of Trust or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) As of the date hereof, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(e) Borrower is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

4. **Intentionally Omitted**.

5. **Miscellaneous**.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

(b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Deed of Trust" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note, the Deed of Trust and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

(h) Time is of the essence of each of Borrower's obligations under this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

LENDER:

LASALLE BANK NATIONAL ASSOCIATION

By: D. Brock
Name: Don Brockwick
Title: FVP

BORROWER:

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation
Its: General Partner

By: ____________________
Its: ____________________

IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

LENDER:

LASALLE BANK NATIONAL ASSOCIATION

By:____________________________
Name:____________________________
Title:____________________________

BORROWER:

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

By: OWR Galleria, Inc., a Delaware corporation
Its: General Partner

By: Charles Vogel
Its: Charles Vogel
Vice President

371113.1 044497-37787

STATE OF ILLINOIS §
§
COUNTY OF COOK §

This instrument was acknowledged before me on the ____ day of June, 2006, by ______________________, ________________ of LaSalle Bank National Association, a national banking association, on behalf of said association.

(PERSONALIZED SEAL)

____
Notary Public, State of Illinois

____
Printed Name of Notary

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on the 28 day of June, 2006, by Charles Vogel, the Vice President of OWR Galleria, Inc., the general partner of Broadstone Galleria, L.P., a Delaware limited partnership, on behalf of said corporation and partnership.

Kim A. Hennis
NOTARY PUBLIC SIGNATURE

Kim A. Hennis
Printed Name of Notary Public

My Commission Expires: 12/08/08

(SEAL)

OFFICIAL SEAL
KIM A. HENNIS
Notary Public - Arizona
Maricopa County
Comm. Expires Dec. 08, 2008

371113.1 044497-37787

STATE OF ILLINOIS §
§
COUNTY OF COOK §

This instrument was acknowledged before me on the 29 day of June, 2006, by Don Broderick, EVP of LaSalle Bank National Association, a national banking association, on behalf of said association.

(PERSONALIZED SEAL)

Tom Thiakos
Notary Public, State of Illinois

OFFICIAL SEAL
TOM S THIAKOS
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:12/31/07

Tom Thiakos
Printed Name of Notary

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on the ___ day of June, 2006, by ____________________________, the ____________________ of OWR Galleria, Inc., the general partner of Broadstone Galleria, L.P., a Delaware limited partnership, on behalf of said corporation and partnership.

____
NOTARY PUBLIC SIGNATURE

____
Printed Name of Notary Public

My Commission Expires: ____________________

(SEAL)

EXHIBIT A

THE PROPERTY

LOT 1, BLOCK 1 OF BROADSTONE GALLERIA ADDITION, AN ADDITION TO THE CITY OF FARMERS BRANCH, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED UNDER CLERK'S FILE NO. 2006-115591, MAP RECORDS, DALLAS COUNTY, TEXAS.

FILED AND RECORDED

THE COUNTY OF DALLAS STATE OF TEXAS

OFFICIAL PUBLIC RECORDS

Cynthia Figueroa Calhoun

Cynthia Figueroa Calhoun, County Clerk
Dallas County TEXAS
July 06, 2006 10:43:23 AM
FEE: $72.00 200600243612

371113.1 044497-37787

ATTACHMENT 7

BANK OF AMERICA
201 East Washington Street, 22nd Floor
AZ1-200-22-17
Phoenix, Arizona 85004-2343

March 21, 2008

Opus West Corporation
Opus West LP
O.W. Commercial , Inc.
PC 101, Inc.
Shoppes at Chino Hills, Inc.
Broadstone Cypress, L.P.
Hill Country Apartments, L.P.
Arch Road Limited Partnership
Broadstone Walker Commons, L.P.
Irvine Center Partners III, L.L.C.
Hill Country Galleria, L.P.
Broadstone Galleria, L.P.
2555 East Camelback, Suite 800
Phoenix, Arizona 85016-9267
Attention: Senior Vice President, Real Estate Finance and Sales

Re: BANK OF AMERICA, N.A., a national banking association, on behalf of itself and as agent for other Lenders ("Lender"), loans to OPUS WEST CORPORATION, a Minnesota corporation ("OPUS"), and various affiliates

Ladies/Gentlemen:

Lender has entered into and hereby modifies the following loan agreements, guaranty agreements, promissory notes, and certificates of representations, warranties, and covenants with OPUS and various affiliates for assorted financings (collectively, the "Loans"):

(i) a Loan Agreement by and between Lender and OPUS, as borrower, dated July 28, 2003 (as amended from time to time, the "Opus RLC Agreement");

(ii) a Construction Loan Agreement by and between Lender and OPUS, as borrower, dated March 13, 2007 (as amended from time to time, the "Commons at Chino Hills Construction Agreement");

(iii) a Construction Loan Agreement by and between Lender and OPUS and O.W. COMMERCIAL, INC., a Delaware corporation, jointly and severally, as borrower, dated August 31, 2007 (as amended from time to time, the "Camarillo Ranch Agreement");

(iv) a Construction Loan Agreement by and between Lender and OPUS WEST LP, a Delaware limited partnership, as borrower, dated November 7, 2005 (as amended from time to time, the "Highland Village Condos Agreement ") and OPUS as a guarantor pursuant to a Guaranty Agreement dated November 7, 2005 (as amended from time to time, the "Highland Village Condos Guaranty");

(v) a Construction Loan Agreement by and between Lender and OPUS WEST LP, a Delaware limited partnership, as borrower, dated November 10, 2006 (as amended from time to time, the "Fort Bend Crossing Agreement") and OPUS as guarantor pursuant to a Guaranty Agreement dated November, 2006 (as amended from time to time, the "Fort Bend Crossing Guaranty");

(vi) a Construction Loan Agreement by and between Lender and SHOPPES AT CHINO HILLS, INC., a Minnesota corporation, as borrower, dated May 16, 2007 (as amended from time to time, the "Shoppes at Chino Hills Agreement") and OPUS as guarantor pursuant to a Guaranty Agreement dated May 16, 2007 (as amended from time to time, the "Shoppes at Chino Hills Guaranty");

(vii) a Construction Loan Agreement by and between Lender and O.W. COMMERCIAL, INC., a Delaware corporation, as borrower, dated May 29, 2007 (as amended from time to time, the "Freemont Tech Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated May 29, 2007 (as amended from time to time, the "Freemont Tech Guaranty");

(viii) a Construction Loan Agreement by and between Lender and PC 101, INC., a Delaware corporation, as borrower, dated May 31, 2005 (as amended from time to time, the "Pima Center Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated May 31, 2005 (as amended from time to time, the "Pima Center Guaranty");

(ix) a Construction Loan Agreement by and between Lender and PC 101, INC., a Delaware corporation, as borrower, dated December 6, 2007 (as amended from time to time, the "Pima Center III-C Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated December 6, 2007 (as amended from time to time, the "Pima Center III-C Guaranty");

(x) a Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and BROADSTONE CYPRESS, L.P., a Delaware limited partnership, as borrower, dated August 31, 2007 (as amended from time to time, the "Cypress Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated August 31, 2007 (as amended from time to time, the "Cypress Guaranty");

(xi) a Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and HILL COUNTRY APARTMENTS, L.P., a Delaware limited partnership, as borrower, dated March 1, 2007 (as amended from time to time, the "Hill Country Apartments Construction Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated March 1, 2007 (as amended from time to time, the "Hill Country Apartments Construction Guaranty");

(xii) a Promissory Note by HILL COUNTRY APARTMENTS, L.P., a Delaware limited partnership, payable to the order of Lender, as successor by merger to LaSalle Bank National Association, a national banking association, dated March 1, 2007 (as amended from time to time, the "Hill Country Apartments Land Note") and OPUS as a guarantor pursuant to a Guaranty Agreement dated March 1, 2007 (as amended from time to time, the "Hill Country Apartments Land Guaranty");

(xiii) a Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and ARCH ROAD LIMITED PARTNERSHIP, a Delaware limited partnership, as borrower, dated October 4, 2007 (as amended from time to time, the "Arch Road Construction Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated October 4, 2007 (as amended from time to time, the "Arch Road Construction Guaranty");

(xiv) a Promissory Note by OPUS, payable to the order of Lender, as successor by merger to LaSalle Bank National Association, a national banking association, dated January 4, 2007 (as amended from time to time, the "Westlake Village Note") and a Certificate of Representations, Warranties and Covenants executed by OPUS, dated January 4, 2007 (as amended from time to time, the "Westlake Village Certificate");

(xv) a Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and OPUS, as borrower, dated September 27, 2007 (as amended from time to time, the "Scripps Ranch Construction Agreement");

(xvi) a Promissory Note by OPUS, payable to the order of Lender, as successor by merger to LaSalle Bank National Association, a national banking association, dated July 5, 2006 (as amended from time to time, the "Stanford Ranch Note") and a Certificate of Representations, Warranties and Covenants executed by OPUS dated July 5, 2006 (as amended from time to time, the "Stanford Ranch Certificate");

(xvii) a Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and BROADSTONE WALKER COMMONS, L.P., a Delaware limited partnership, as borrower, dated August 31, 2007 (as amended from time to time, the "Walker Commons Construction Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated August 31, 2007 (as amended from time to time, the "Walker Commons Construction Guaranty");

(xviii) an Amended and Restated Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and IRVINE CENTER PARTNERS III, L.L.C., a Delaware limited liability company, as borrower, dated October 31, 2006 (as amended from time to time, the "Irvine Center Construction Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated October 11, 2006 (as amended from time to time, the "Irvine Center Construction Guaranty");

(xix) a Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and HILL COUNTRY GALLERIA, L.P., a Delaware limited partnership, as borrower, dated July 27, 2006 (as amended from time to time, the "Hill Country Galleria Construction Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated July 27, 2006 (as amended from time to time, the "Hill Country Galleria Construction Guaranty");

(xx) a Construction Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and BROADSTONE GALLERIA, L.P., a Delaware limited partnership, as borrower, dated July 30, 2006 (as amended from time to time, the "Broadstone Galleria Construction Agreement") and OPUS as a guarantor pursuant to a Guaranty Agreement dated June 30, 2006 (as amended from time to time, the "Broadstone Galleria Construction Guaranty"); and

(xxi) a Loan Agreement by and between Lender, as successor by merger to LaSalle Bank National Association, a national banking association, and OPUS, as borrower, dated May 29, 2003 (as amended from time to time, the "Opus May RLC Agreement").

The documents evidencing, securing, guaranteeing or executed and delivered in connection with the Loans, including, without limitation, the Loan Agreements executed in connection with the Loans (collectively, as amended from time to time, the "Loan Agreements"), the Guaranties executed in connection with the Loans (collectively, as amended from time to time, the "Guaranties"), and the Certificates of Representations, Warranties, and Covenants executed in connection with the Loans (collectively, as amended from time to time, the "Certificates") are herein called the "Loan Documents".

The Loan Agreements, Guaranties, and Certificates are hereby amended as follows:

1. Sections 2.18, 2.19 and 2.20 of the Opus RLC Agreement are hereby amended in their entirety to read as follows:

> 2.18 Minimum Liquidity. Borrower shall maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).
>
> 2.19 Tangible Net Worth plus Subordinated Debt. Borrower shall maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.
>
> "Tangible Net Worth" means the gross book value of Borrower's assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles), plus debt subordinated to the Lenders (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Administrative Agent (using Administrative Agent's standard form) less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.
>
> 2.20 Total Liabilities to Tangible Net Worth Ratio. Borrower shall maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.
>
> "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

2. Sections 3.21, 3.22 and 3.23 of the Commons at Chino Hills Construction Agreement are hereby amended in their entirety to read as follows:

3.21 Minimum Liquidity. Borrower shall maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities of not less than Three Million And No/100 Dollars ($3,000,000.00).

3.22 Tangible Net Worth plus Subordinated Debt. Borrower shall maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.

3.23 Total Liabilities to Tangible Net Worth Ratio. Borrower shall maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.

3. Sections 4.27, 4.28 and 4.29 of the Camarillo Ranch Agreement are hereby amended in their entirety to read as follows:

Section 4.27 Minimum Liquidity. Opus shall maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).

Section 4.28 Tangible Net Worth plus Subordinated Debt. Opus shall maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.

"Tangible Net Worth" means the gross book value of Opus' assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles), plus debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form) less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.

Section 4.29 Total Liabilities to Tangible Net Worth Ratio. Opus shall maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.

"Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

4. Sections 2.19, 2.20, and 2.21 of the Highland Village Condos Agreement and Fort Bend Crossing Agreement are hereby amended in their entirety to read as follows:

2.19 Minimum Liquidity. Borrower shall cause Guarantor to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).

2.20 Tangible Net Worth plus Subordinated Debt. Borrower shall cause Guarantor to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and one Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.

"Tangible Net Worth" means the gross book value of Guarantor's assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles), plus debt subordinated to the Loan (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Administrative Agent (using Lender's standard form) less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.

2.21 Total Liabilities to Tangible Net Worth Ratio. Borrower shall cause Guarantor to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008 and 5.0 to 1.0 thereafter.

"Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

5. Sections 4.27, 4.28 and 4.29 of the Freemont Tech Agreement, the Pima Center Agreement and the Pima Center III-C Agreement are hereby amended in their entirety to read as follows:

Section 4.27 Minimum Liquidity. Borrower shall cause Guarantor to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).

Section 4.28 Tangible Net Worth plus Subordinated Debt. Borrower shall cause Guarantor to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.

"Tangible Net Worth" means the gross book value of Guarantor's assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles), plus debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form) less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.

Section 4.29 Total Liabilities to Tangible Net Worth Ratio. Borrower shall cause Guarantor to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.

"Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

6. Sections 14(b)(i), (ii), and (iii) of the Highland Village Condos Guaranty, the Fort Bend Crossing Guaranty, the Pima Center Guaranty and the Pima Center III-C Guaranty are hereby amended in their entirety to read as follows:

(b) Guarantor hereby agrees as follows:

(i) to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00);

(ii) to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter. "Tangible Net Worth" means the gross book value of the assets of Guarantor (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And no/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets; and

(iii) to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter. "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

7. Section 13(B) of the Shoppes at Chino Hills Guaranty and the Freemont Tech Guaranty are hereby amended in their entirety to read as follows:

B. Guarantor hereby agrees as follows:

(i) to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00);

(ii) to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter. "Tangible Net Worth" means the gross book value of the assets of Guarantor (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And no/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets; and

(iii) to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter. "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

8. Section 22(a) of the Cypress Guaranty, the Hill Country Apartments Construction Guaranty, the Arch Road Construction Guaranty, and the Walker Commons Construction Guaranty are hereby amended in their entirety to read as follows:

(a) Guarantor hereby agrees as follows (the following covenants are collectively called the "Financial Covenants"):

(i) to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00);

(ii) to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter. "Tangible Net Worth" means the gross book value of the assets of Guarantor (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And no/100 Dollars [$30,000,000.00]) in a manner acceptable to

Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets; and

(iii) to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter. "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

9. Section 17(a) of the Westlake Village Certificate and the Stanford Ranch Certificate are hereby amended in their entirety to read as follows:

(a) Borrower hereby agrees as follows (the following covenants are collectively called the "Financial Covenants"):

(i) to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00);

(ii) to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million AND No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter. "Tangible Net Worth" means the gross book value of the assets of Borrower (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets; and

(iii) to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter. "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

10. Section 23(a) of the Hill Country Galleria Construction Guaranty and the Irvine Center Construction Guaranty are hereby amended in their entirety to read as follows:

(a) Guarantor hereby agrees as follows (the following covenants are collectively called the "Financial Covenants"):

(i) to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00);

(ii) to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter. "Tangible Net Worth" means the gross book value of the assets of Guarantor (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And no/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets; and

(iii) to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter. "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

11. Section 23(a) of the Hill Country Apartments Land Guaranty is hereby amended in its entirety to read as follows:

(a) Guarantor hereby agrees as follows (the following covenants are collectively called the "Financial Covenants"):

(i) to maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00);

(ii) to maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million And No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter. "Tangible Net Worth" means the gross book value of the assets of Guarantor (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And no/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets; and

(iii) to maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter. "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

(iv) to furnish to Lender certified annual financial statements within one hundred twenty (120) days after the close of each fiscal year; and

(v) to furnish to Lender certified quarterly financial statements, including compliance certificates, within sixty (60) days of each fiscal quarter and fiscal year end.

12. The following definitions are hereby added to Section 1.1 of the Scripps Ranch Construction Agreement:

"Tangible Net Worth" means the gross book value of Borrower's assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.

"Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

13. Sections 8.14(a), (b), (c), (d), and (e) of the Scripps Ranch Construction Agreement are hereby amended in their entirety to read as follows:

(a) Borrower shall maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).

(b) Borrower shall maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million AND No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.

(c) Borrower shall maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.

14. The following definitions are hereby added to Section 1.1 of the Irvine Center Construction Agreement:

"Tangible Net Worth" means the gross book value of Guarantor's assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.

"Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

15. Sections 8.14(i), (ii), (iii), and (iv) of the Irvine Center Construction Agreement are hereby amended in their entirety to read as follows:

(i) Guarantor shall maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).

(ii) Guarantor shall maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million AND No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.

(iii) Guarantor shall maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.

16. The following definitions are hereby added to Section 1.1 of the Broadstone Galleria Construction Agreement:

> "Tangible Net Worth" means the gross book value of Opus West's assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.
>
> "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

17. Sections 8.13, 8.14, and 8.15 of the Broadstone Galleria Construction Agreement are hereby amended in their entirety to read as follows:

> 8.13 Opus West shall maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).
>
> 8.14 Opus West shall maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million AND No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.
>
> 8.15 Opus West shall maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.

18. Section 8.16 of the Broadstone Galleria Construction Agreement is hereby deleted in its entirety.

19. The following definitions are hereby added to Section 1.1 of the Opus May RLC Agreement:

> "Tangible Net Worth" means the gross book value of Borrower's assets (excluding goodwill, patents, trademarks, trade names, organization expense, treasury stock, unamortized debt discount and expense, deferred research and development costs, deferred marketing expenses, and other like intangibles) plus debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form), less total liabilities, including but not limited to accrued and deferred income taxes, and any reserves against assets.

> "Total Liabilities" means in accordance with GAAP the sum of current liabilities plus long-term liabilities plus consolidated joint venture debt less debt subordinated to Lender (limited to a maximum of Thirty Million And No/100 Dollars [$30,000,000.00]) in a manner acceptable to Lender (using Lender's standard form).

20. Sections 5.4(b), (c), and (d) of the Opus May RLC Agreement are hereby amended in their entirety to read as follows:

> (b) Borrower shall maintain during the life of the Loan at the end of each fiscal quarter, unpledged cash, cash equivalents as determined by generally accepted accounting principles, and marketable securities ("Liquidity") of not less than Three Million And No/100 Dollars ($3,000,000.00).

> (c) Borrower shall maintain at the end of each fiscal quarter on a consolidated basis Tangible Net Worth plus subordinated debt equal to at least One Hundred Twenty-Five Million AND No/100 Dollars ($125,000,000.00) for fiscal year 2008 and One Hundred Million And No/100 Dollars ($100,000,000.00) thereafter.

> (d) Borrower shall maintain at the end of each fiscal quarter on a consolidated basis a ratio of Total Liabilities to Tangible Net Worth not exceeding 6.0 to 1.0 through December 31, 2008, and 5.0 to 1.0 thereafter.

21. Section 5.4(f) of the Opus May RLC Agreement is hereby deleted in its entirety.

Each of the Loan Documents, to the extent applicable, is hereby modified to incorporate the foregoing modifications which shall govern and control in the event of any inconsistency with any other provision of any of the Loan Documents. All other terms and conditions of the Loan Documents shall remain unchanged and in full force and effect. Any property or rights or interest in property granted as security for the Loans shall remain as security for the Loans and the obligations of the borrowers under the Loan Documents.

BANK OF AMERICA, N.A., a national banking association

By: ____________________
Name: EDGARDO MARTINEZ
Title: ASST. VICE PRESIDENT

With respect to the Opus RLC Agreement:

Acknowledged and Agreed to as of the 20 day of March, 2008

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

BORROWER

With respect to the Commons at Chino Hills Construction Agreement:

Acknowledged and Agreed to as of the 20 day of March, 2008

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

BORROWER

Opus West Corporation
March 21, 2008
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With respect to the Camarillo Ranch Agreement:

Acknowledged and Agreed to as of the
20 day of March, 2008

O.W. COMMERCIAL, INC., a Delaware corporation

By: Charles Vogel
Name: [illegible]
Title: [illegible]

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

BORROWER

With respect to the Highland Village Condos Agreement and the Highland Village Condos Guaranty:

Acknowledged and Agreed to as of the 20 day of March, 2008

OPUS WEST LP, a Delaware limited partnership, Borrower

BY: OPUS WEST CORPORATION, a Minnesota corporation, Its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Fort Bend Crossing Agreement and the Fort Bend Crossing Guaranty:

Acknowledged and Agreed to as of the 20 day of March, 2008

OPUS WEST LP, a Delaware limited partnership, Borrower

BY: OPUS WEST CORPORATION, a Minnesota corporation, Its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Shoppes at Chino Hills Agreement and the Shoppes at Chino Hills Guaranty:

Acknowledged and Agreed to as of the
22 day of March, 2008

SHOPPES AT CHINO HILLS, INC., a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Freemont Tech Agreement and the Fremont Tech Guaranty:

Acknowledged and Agreed to as of the 20 day of March, 2008

O.W. COMMERCIAL, INC., a Delaware corporation

By:
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By:
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Pima Center Agreement and the Pima Center Guaranty:

Acknowledged and Agreed to as of the
20 day of March, 2008

PC 101, INC., a Delaware corporation

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Pima Center III-C Agreement and the Pima Center III-C Guaranty:

Acknowledged and Agreed to as of the
20 day of March, 2008

PC 101, INC., a Delaware corporation

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Cypress Agreement and the Cypress Guaranty:

Acknowledged and Agreed to as of the 20 day of March, 2008

BROADSTONE CYPRESS, L.P., a Delaware limited partnership

BY: OWR CYPRESS INC., a Delaware corporation, its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Hill Country Apartments Construction Agreement and the Hill Country Apartments Construction Guaranty:

Acknowledged and Agreed to as of the 21 day of March, 2008

HILL COUNTRY APARTMENTS, L.P., a Delaware limited partnership

BY: OWR Hill Country, Inc., a Delaware corporation, its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Hill Country Apartments Land Note and the Hill Country Apartments Land Guaranty:

Acknowledged and Agreed to as of the 20 day of March, 2008

HILL COUNTRY APARTMENTS, L.P., a Delaware limited partnership

BY: OWR Hill Country, Inc., a Delaware corporation, its General Manager

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Arch Road Construction Agreement and the Arch Road Construction Guaranty:

Acknowledged and Agreed to as of the
20 day of March, 2008

ARCH ROAD LIMITED PARTNERSHIP, a Delaware limited partnership

BY: Stockton GP, L.L.C., a Delaware limited liability company, its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Westlake Village Note and the Westlake Village Certificate.

Acknowledged and Agreed to as of the 7th day of [illegible], 2008

OPUS WEST CORPORATION, a Minnesota corporation

By: [signature]
Name: [illegible]
Title: [illegible]

BORROWER

Opus West Corporation
March 21, 2008
Page 32

With respect to the Scripps Ranch Construction Agreement:

Acknowledged and Agreed to as of the 2 day of [illegible], 2008

OPUS WEST CORPORATION, a Minnesota corporation

By: [signature]
Name: [illegible]
Title: [illegible]

BORROWER

With respect to the Stanford Ranch Note and the Stanford Ranch Certificates

Acknowledged and Agreed to as of the 2[illegible] day of March, 2008

OPUS WEST CORPORATION, a Minnesota corporation

By: [signature]
Name: [illegible]
Title: [illegible]

BORROWER

With respect to the Walker Commons Construction Agreement and the Walker Commons Construction Guaranty:

Acknowledged and Agreed to as of the 22 day of March, 2008

BROADSTONE WALKER COMMONS, L.P., a Delaware limited partnership

BY: OWR Walker Commons, Inc., a Delaware corporation, its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

QBACTIVE\6108299.5

With respect to the Irvine Center Construction Agreement and the Irvine Center Construction Guaranty:

Acknowledged and Agreed to as of the 20 day of March, 2008

IRVINE CENTER PARTNERS III, L.L.C., a Delaware limited liability company

BY: Opus West Corporation, a Minnesota corporation, its Manager

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Hill Country Galleria Construction Agreement and the Hill Country Galleria Construction Guaranty:

Acknowledged and Agreed to as of the 7 day of March, 2008

HILL COUNTRY GALLERIA, L.P., a Delaware limited partnership

BY: OWR Hill Country, Inc., a Delaware corporation, its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Broadstone Galleria Construction Agreement and the Broadstone Galleria Construction Guaranty:

Acknowledged and Agreed to as of the 21 day of March, 2008

BROADSTONE GALLERIA, L.P., a Delaware limited partnership

BY: OWR Galleria, Inc., a Delaware corporation, its General Partner

By: Charles Vogel
Name: Charles Vogel
Title: Vice President

BORROWER

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

With respect to the Opus May RLC Agreement:

Acknowledged and Agreed to as of the 26 day of March, 2008

OPUS WEST CORPORATION, a Minnesota corporation

By: [illegible]
Name: [illegible]
Title: [illegible]

BORROWER

CONSENT AND AGREEMENT OF GUARANTOR

The undersigned ("Guarantor") executed guarantees in connection with one or more of the Loans described and defined in the foregoing letter agreement. The Guarantor hereby consents and agrees to the modifications and all other matters contained in the letter agreement and agrees that nothing contained in the letter agreement shall in any manner affect or impair any of the obligations or liabilities of the undersigned Guarantor to Lender. Each guaranty executed by the Guarantor in connection with one or more of the Loans is continued in full force and effect and remains unaffected and unchanged except to the extent specifically amended by this consent and agreement. All such guaranties are hereby ratified and reaffirmed and Guarantor specifically acknowledges the validity and enforceability thereof.

Dated as of March 20, 2008.

OPUS WEST CORPORATION, a Minnesota corporation

By: Charles Vogel
Name: Charles Vogel
Title: Senior Vice President

GUARANTOR

ATTACHMENT 8

[redacted]

UCC1NON 200503628175
10 PGS

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME: BROADSTONE GALLERIA, L.P.				
OR 1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME		SUFFIX
1c. MAILING ADDRESS: 2555 EAST CAMELBACK ROAD, STE. 800	CITY: PHOENIX	STATE: AZ	POSTAL CODE: 85016	COUNTRY: USA
1d. SEE INSTRUCTIONS / ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION: LTD. PRTNRSHIP.	1f. JURISDICTION OF ORGANIZATION: DELAWARE	1g. ORGANIZATIONAL ID #, if any: 4066055	☐ NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME				
OR 2b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME		SUFFIX
2c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
2d. SEE INSTRUCTIONS / ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any	☐ NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME: LASALLE BANK NATIONAL ASSOCIATION				
OR 3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME		SUFFIX
3c. MAILING ADDRESS: 135 S. LASALLE STREET, SUITE 1225	CITY: CHICAGO	STATE: IL	POSTAL CODE: 60603	COUNTRY: USA

4. This FINANCING STATEMENT covers the following collateral:

THE COLLATERAL DESCRIBED ON EXHIBIT "B" ATTACHED HERETO, INCLUDING ANY SUCH COLLATERAL LOCATED ON THE PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☒ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

044497-37046 MDR FILE WITH DALLAS COUNTY, TEXAS RECORDER

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

BROADSTONE GALLERIA, L.P.

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME,SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

11d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any
				☐ NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

12c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☒ fixture filing.

14. Description of real estate:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years

☐ Filed in connection with a Public-Finance Transaction — effective 30 years

EXHIBIT "B" TO UCC

Debtor: Broadstone Galleria, L.P., a Delaware limited partnership

Secured Party: LaSalle Bank National Association, a national banking association

THE REAL ESTATE located in the County of Dallas, State of Texas and legally described on Exhibit A attached hereto and made a part hereof, including all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, tenements, hereditaments, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property (collectively, the "Real Estate");

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Debtor and on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of Debtor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Debtor or on its behalf (the "Improvements");

TOGETHER WITH all easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Debtor of, in and to the same;

TOGETHER WITH all rents, revenues, issues, profits, proceeds, income, royalties, "accounts," including "health-care-insurance receivables," escrows, letter-of-credit rights (each as defined in the Code hereinafter defined), security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by Debtor thereon, to be applied against the Indebtedness (as defined in that certain Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing between Debtor and Secured Party);

TOGETHER WITH all interest of Debtor in all leases now or hereafter on the Premises, whether written or oral ("Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Debtor to collect the rentals under any such Lease;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Debtor and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Debtor and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Indebtedness (as hereinafter defined); notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Instrument and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Texas Business and Commerce Code in effect from time to time) (the "Code"), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Trustee for the benefit of Lender, as a secured party, and Debtor, as Debtor, all in accordance with the Code; and

TOGETHER WITH all of Debtor's interests in "general intangibles" including "payment intangibles" and "software" (each as defined in the Code) now owned or hereafter acquired and related to the Premises, including, without limitation, all of Debtor's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which Debtor is or may become a party and which relate to the Premises; (ii) all obligations and indebtedness owed to Debtor thereunder; (iii) all intellectual property related to the Premises; and (iv) all choses in action and causes of action relating to the Premises;

TOGETHER WITH all of Debtor's accounts now owned or hereafter created or acquired as relate to the Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Debtor: (i) accounts, contract rights, health-care-insurance receivables, book debts, notes, drafts, and other obligations or indebtedness owing to the Debtor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Debtor's rights in, to and under all purchase orders for goods, services or other property; (iii) the Debtor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due to become due to the Debtor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Debtor); (v) "securities", "investment property," "financial assets," and "securities entitlements" (each as defined in the Code), and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and all warranties, guarantees, permits and licenses in favor of Debtor with respect to the Premises;

TOGETHER WITH all proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof.

EXHIBIT "A"

LEGAL DESCRIPTION

Tract 1 - (Lot A, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY, Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot A, Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same tract of land conveyed to the Curtis L. Carlson Dallas Trust by Warranty Deed recorded in Volume 484, Page 1653, transferred to Carlson Realty Company, General Partnership by Warranty Deed recorded in Volume 86171, Page 1589, and to Carlson Realty Company, Limited Partnership, by Quit Claim Deed recorded in Volume 91079, Page 1789, of the Deed Records of Dallas County, Texas (DRDCT) , and being more particularly described as follows:

BEGINNING at an "X" cut in Galleria Drive in the westerly Right-of-Way line of Inwood Road (a 60. 0 ft. R. O. W) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said Westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 0. 05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096, Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459.58 feet (Deed 459.65 ft.) and continuing with the North line of said Heritage Square Addition, in all, a total distance of 509.30 feet (Deed 509.13 ft.) to a 5/8 inch iron rod found in asphalt drive for the Southwest corner of Lot A, Block 1 and the Southeast corner of Lot B, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 17 degrees 02 minutes 02 seconds West (Deed North 17 degrees 01 minutes 00 seconds West), departing said North line of Heritage Square Addition, with the common line of said Lots A and B, Block 1, passing 2.9 feet right of the Northeast corner post of a 6 foot chain I ink fence at a distance of 8.7 feet and 2.2 feet left of the Northeast corner post of said 6 foot chain link fence at a distance of 365.4 feet, and continuing, in all, a total distance of 489.26 feet to a point in the South line of Simonton Road (a 60. ft. R. W) for the common North corner of Lots A and B, Block 1, from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, 06 feet;

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road, passing at a distance of 496.4 feet to a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point, 15 feet from the true Northeast corner of Lot Block 1, and continuing, in all, a total distance of 508.41 feet (Deed 508. 49 ft.) to a point for a corner in said Westerly line of Inwood Road, said point being on the Southwest edge of a power pole and within the area of an underground power riser said power pole;

THENCE South 17 degrees 04 minutes 13 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), with said Westerly line of Inwood Road, passing at a distance of 15 feet a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point for the true Northeast corner of Lot A, Block I ' and' continuing, in all, a total distance of 491.28 feet (Deed 491. 48 ft.) to the POINT OF BEGINNING and CONTAINING 238,758 Square Feet or 5.4811 Acres (Deed 5.482 Ac.) of land, more or less.

Tract 2 - (Lot B, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot B Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same tract of land conveyed to Carlson Real Estate Company by Warranty Deed recorded in Volume 90174 Page 0330 of the Deed Records of Dallas County, Texas (DRDCT), and being more particularly described as follows:

COMMENCING at an "X" cut in Galleria Drive in the westerly Right-of-Way line of Inwood Road (a 60. ft. R.) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096 Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459.58 feet (Deed 459.65 ft.) and continuing with the North line of said Heritage Square Addition in all, a total distance of 509.30 feet (Deed 509.13 ft.) to a 5/8 inch iron rod found in asphalt drive for the common South corner of Lot A and Lot B, Block 1 for the POINT OF BEGINNING:

THENCE South 89 degrees 54 minutes 28 seconds West, with the South line of said Lot Block 1 and continuing with said North line of Heritage Square Addition, passing 0.05 feet right of a 1/2 inch iron rod found for the Northwest corner of said Heritage Square Addition and the Northeast corner of Lot 4B of Farmers Branch Office Park Addition, as recorded in Volume 95011 Page 02986 (MRDCT) at a distance of 550.0 feet and

continuing with the North line of said Lot 4B of Farmers Branch Office Park Addition, in all, a total distance of 624.09 feet (Deed 624.49 ft.) to a 1/2 inch capped iron rod with unreadable stamping found for the common South corner Lot Band Lot C, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 00 degrees 07 minutes 08 seconds West (Deed North 00 degrees 12 minutes 20 seconds West), a distance of 21.47 feet (Deed 20.96 feet) of a 1/2 inch iron rod found in the centerline of the St. Louis- Southwestern Railway Company lead track for a common corner of said Lots Band C, Block 1 said point being in a circular curve to the left having a radius of 459.28 feet, a tangent length of 445.41 feet, and a chord which bears North 45 degrees 37 minutes 36 seconds East, a distance of 639.49 feet;

THENCE in an Easterly, Northeasterly, and Northerly direction with the common line of said Lots Band C, Block 1, and curve to the left, through a central angle of 88 degrees 13 minutes 45 seconds (Deed 88 degrees 18 minutes 00 seconds), and in arc length of 707.35 feet (Deed 707.81 ft.) to a 1/2 inch capped iron rod stamped A. Halff found for the common North corner of said Lots Band C, Block 1 at the intersection of said St. Louis- Southwestern Railway Company lead track and the Southerly right-of-way line of Simonton Road (a 60 ft. R. W);

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road, a distance of 23. 71 feet (Deed 24. 03 ft.) to the common North corner of said Lot B and Lot A, Block 1, from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, a distance of 0.06 feet;

THENCE South 17 degrees 02 minutes 02 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), departing said South line of Simmonton Road, with the common line of said Lots A and B, Block 1, passing 2.2 feet right of the Northeast corner post of a 6 foot chain link fence at a distance of 123.8 feet and 2.9 feet left of the Southeast corner posts of said 6 foot chain link fence at a distance of 480.6 feet, continuing in all, a total distance of 489.26 feet to the POINT OF BEGINNING and CONTAINING 471 Square Feet or 2.2835 Acres (Deed 2.2824 Ac.) of land, more or less. Total Tract - (Lot A and Lot B, Block 1):

BEING a tract or parcel of land out of the MARY BROWN SURVEY, Abstract No. 159, situated in the City of Farmers Branch, Dallas County, Texas; and being all of Lot A and Lot B, Block 1 of the Metropolitan Industrial Park Addition as recorded in Volume 363, Page 1216 of the Map Records of Dallas County, Texas (MRDCT) and being the same called 5.482 acre tract of land conveyed to the Curtis L. Carlson Dallas Trust by Warranty Deed recorded in Volume 484, Page 1653, transferred to Carlson Realty Company, General Partnership by Warranty Deed recorded in Volume 86171, Page 1589, and to Carlson Realty Company, Limited Partnership, by Quit Claim Deed recorded in Volume 91079, Page 1789, of the Deed Records of Dallas County, Texas (DRDCT), and the same called 2.2824 acre TRACT conveyed to Carlson Real Estate Company by Warranty Deed recorded in Volume 90174 Page 0330 of the Deed Records of Dallas County, Texas (DRDCT), and being more particularly described as follows:

BEGINNING at an "X" cut in Galleria Drive in the westerly Right-of-Way line Road (a 60. 0 ft. R.) at the Southeast corner of said Lot A, Block 1 of Metropolitan Industrial Park Addition and the Northeast corner of a Roadway Easement conveyed to the City of Farmers Branch, Texas and described as Block A, Lot 5, Tract 3 in instrument recorded in Volume 85023, Page 1406 (DRDCT);

THENCE South 89 degrees 54 minutes 28 seconds West, departing said westerly line of Inwood Road, with the South line of said Lot A, Block 1 and North line of said Roadway Easement, passing 0. 05 feet right of a 1/2" iron rod found for the Northwest corner of said Roadway Easement and the most Northerly, Northeast corner of Heritage Square Addition, a Replat of Lot 4A of Farmers Branch Office Park Addition, as recorded in Volume 2001096, Page 00623 of the Map Records of Dallas County, Texas (Basis of Bearings) at a distance of 459. 58 feet (Deed 459.65 ft.), continuing with said North line of Heritage Square Addition, passing a 5/8 inch iron rod found in asphalt drive for the common South corner of Lot A and Lot B, Block 1 at a distance of 509.30 feet (Deed 509. 13 ft.), passing 0. 07 feet right of a 1/2 inch iron rod found for the Northwest corner of said Heritage Square Addition and the Northeast corner of Lot 4B of Farmers Branch Office Park Addition, as recorded in Volume 95011, Page 02986 (MRDCT) at a distance of 1009. 58 feet (Deed 1009. 65 ft.), and continuing with the North line of said Lot 4B of Farmers Branch Office Park Addition in all, a total distance of 1133. 38 feet (Deed 1133. 62 ft.) to a 1/2 inch capped iron rod with unreadable stamping found for the common South corner Lot B and Lot C, Block 1 of said Metropolitan Industrial Park Addition;

THENCE North 00 degrees 07 minutes 08 seconds West (Deed North 00 degrees 12 minutes 20 seconds West), a distance of 21. 47 feet (Deed 20. 96 ft.) to 1/2" iron rod found in the centerline of the St. Louis Southwestern Railway Company lead track for a common corner of said Lots Band C, Block 1, said point being in a circular curve to the left having a radius of 459. 28 feet, a tangent length of 445. 41 feet, and a chord which bears North 45 degrees 37 minutes 36 seconds East, a distance of 639. 49 feet;

THENCE in an Easterly, Northeasterly, and Northerly direction with the common line of said Lots Band C, Block 1, and curve to the left, through a central angle of 88 degrees 13 minutes 45 seconds (Deed 88 degrees 18 minutes 00 seconds), and an arc length of 707.35 feet (Deed 707.81 ft.) to a 1/2 inch capped iron rod stamped Halff found for the common North corner of said Lots B and C, Block 1 at the intersection of said St. Louis Southwestern Railway Company lead track and the Southerly right-of-way line of Simonton Road (a 60 ft. R.O.W.);

THENCE North 89 degrees 42 minutes 00 seconds East, with said South line of Simonton Road and North line of Lot B, Block B, passing the common North corner of said Lot B and Lot A, Block 1 at a distance of 23.71 feet (Deed 24.03 ft.), from which point a 5/8 inch iron rod found bears North 17 degrees 02 minutes 02 seconds West, a distance of 0. 06 feet, and continuing with said South line of Simonton Rood and North line of Lot A, Block 1, passing at a distance of 496. 4 feet to a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point 15 feet from the true Northeast corner of Lot A, Block 1, and continuing, in all, a total distance of 508. 41 feet (Deed 508. ft.) to a

point for a corner in said Westerly line of Inwood Road, said point being on the Southwest edge of a power pole and within the area of an underground power riser on said power pole;

THENCE South 17 degrees 04 minutes 13 seconds East (Deed South 17 degrees 01 minutes 00 seconds East), with said Westerly line of Inwood Road, passing at a distance of 15 feet a 1/2 inch capped iron rod stamped MLM/2617 set for a reference point for the true Northeast corner of Lot A, Block 1, and continuing, in all, a total distance of 491.28 feet (Deed 491.48 ft.) to the POINT OF BEGINNING and CONTAINING 338,229 Square Feet or 7.7647 Acres (Deed 7.7644 Ac.) of land, more or less.

Property Address: 13465 Inwood Road
Farmers Branch, Texas

Tax Number 24125500010010100 (Parcel 1 of 2)
24125500010020000 (Parcel 2 of 2)

FILED AND RECORDED

THE COUNTY OF DALLAS STATE OF TEXAS

OFFICIAL PUBLIC RECORDS

Cynthia Figueroa Calhoun

Cynthia Figueroa Calhoun, County Clerk
Dallas County TEXAS
December 15, 2005 01:32:14 PM
FEE: $73.00
200503628175

ATTACHMENT 9

GUARANTY OF PAYMENT

This GUARANTY OF PAYMENT dated as of December 14, 2005 (this "Guaranty"), is executed by OPUS WEST CORPORATION, a Minnesota corporation (the "Guarantor"), to and for the benefit of LASALLE BANK NATIONAL ASSOCIATION, a national banking association (the "Lender").

RECITALS:

A. Pursuant to the terms of that certain Holdback Agreement of even date herewith between Lender and Broadstone Galleria, L.P., a Delaware limited partnership ("Borrower"), Lender has agreed to loan the principal amount of Six Million Three Hundred Seventy-Five Thousand & No/100 Dollars ($6,375,000.00) ("Loan") to Borrower.

B. As a condition precedent to Lender's extension of the Loan to Borrower and in consideration thereof, Lender has required the execution and delivery of (i) this Guaranty by Guarantor, (ii) that certain Promissory Note of even date herewith (as amended, modified, restated or replaced from time to time, the "Note") made by Borrower payable to Lender in the aggregate principal amount of the Loan, (iii) that certain Commercial Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith (as amended from time to time, "Deed of Trust") from Borrower for the benefit of Lender encumbering the real property, improvements and personalty described therein ("Premises"), and (iv) the other Loan Documents (as defined in the Loan Agreement).

C. Guarantor is a member of Borrower and, having a financial interest in the Premises, has agreed to execute and deliver this Guaranty to Lender.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Guarantor hereby agrees as follows:

AGREEMENTS:

1. Guaranty of Payment. The Guarantor hereby unconditionally, absolutely and irrevocably guaranties to the Lender the punctual payment and performance when due, whether at stated maturity or by acceleration or otherwise, of the indebtedness and other obligations of the Borrower to the Lender evidenced by the Note and any other amounts that may become owing by the Borrower under the Loan Documents (such indebtedness, obligations and other amounts are hereinafter referred to as "Payment Obligations"). This Guaranty is a present and continuing guaranty of payment and not of collectability, and the Lender shall not be required to prosecute collection, enforcement or other remedies against the Borrower or any other guarantor of the Payment Obligations, or to enforce or resort to any collateral for the repayment of the Payment Obligations or other rights or remedies pertaining thereto, before calling on the Guarantor for payment. If for any reason the Borrower shall fail or be unable to pay, punctually and fully, any of the Payment Obligations, the Guarantor shall pay such obligations to the Lender in full immediately upon demand. One or more successive actions may be brought against the Guarantor, as often as the Lender deems advisable, until all of the Payment Obligations are paid and performed in full. The Payment Obligations, together with all other obligations of the Guarantor hereunder, are referred to herein as the "Obligations".

2. Representations and Warranties. The following shall constitute representations and warranties of the Guarantor, and the Guarantor hereby acknowledges that Lender intends to make the Loan in reliance thereon:

(a) The Guarantor is not in default, and no event has occurred which, with the passage of time and/or the giving of notice, would constitute a default, under any agreement to which the Guarantor is a party, the effect of which will impair performance by the Guarantor of its obligations under this Guaranty. Neither the execution and delivery of this Guaranty nor compliance with the terms and provisions hereof will violate any applicable law, rule, regulation, judgment, decree or order, or will conflict with or result in any breach of any of the terms, covenants, conditions or provisions of any indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind that creates, represents, evidences or provides for any lien, charge or encumbrance upon any of the property or assets of the Guarantor, or any other indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind to which the Guarantor is a party or to which the Guarantor or the property of the Guarantor may be subject.

(b) There are no litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending, or to the knowledge of the Guarantor, threatened that could adversely affect performance by the Guarantor of its obligations under this Guaranty.

(c) Neither this Guaranty nor any statement or certification as to facts previously furnished or required herein to be furnished to the Lender by the Guarantor, contains any material inaccuracy or untruth in any representation, covenant or warranty or omits to state a fact material to this Guaranty.

3. Continuing Guaranty. The Guarantor agrees that performance of the Obligations by the Guarantor shall be a primary obligation, shall not be subject to any counterclaim, set-off, abatement, deferment or defense based upon any claim that the Guarantor may have against the Lender, the Borrower, any other guarantor of the Obligations or any other person or entity, and shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by, any circumstance or condition (whether or not the Guarantor shall have any knowledge thereof), including without limitation:

(a) any lack of validity or enforceability of any of the Loan Documents;

(b) any termination, amendment, modification or other change in any of the Loan Documents, including, without limitation, any modification of the interest rate(s) described therein;

(c) any furnishing, exchange, substitution or release of any collateral securing repayment of the Loan, or any failure to perfect any lien in such collateral;

(d) any failure, omission or delay on the part of the Borrower, the Guarantor, any other guarantor of the Obligations or the Lender to conform or comply with any term of any of the Loan Documents or any failure of the Lender to give notice of any Event of Default (as defined in the Note);

(e) any waiver, compromise, release, settlement or extension of time of payment or performance or observance of any of the obligations or agreements contained in any of the Loan Documents;

(f) any action or inaction by the Lender under or in respect of any of the Loan Documents, any failure, lack of diligence, omission or delay on the part of the Lender to perfect, enforce, assert or exercise any lien, security interest, right, power or remedy conferred on it in any of the Loan Documents, or any other action or inaction on the part of the Lender;

(g) any voluntary or involuntary bankruptcy, insolvency, reorganization, arrangement, readjustment, assignment for the benefit of creditors, composition, receivership, liquidation, marshalling of assets and liabilities or similar events or proceedings with respect to the Borrower, the Guarantor or any other guarantor of the Obligations, as applicable, or any of their respective property or creditors, or any action taken by any trustee or receiver or by any court in any such proceeding;

(h) any merger or consolidation of the Borrower into or with any entity, or any sale, lease or transfer of any of the assets of the Borrower, the Guarantor or any other guarantor of the Obligations to any other person or entity;

(i) any change in the ownership of the Borrower or any change in the relationship between the Borrower, the Guarantor or any other guarantor of the Obligations, or any termination of any such relationship;

(j) any release or discharge by operation of law of the Borrower, the Guarantor or any other guarantor of the Obligations from any obligation or agreement contained in any of the Loan Documents; or

(k) any other occurrence, circumstance, happening or event, whether similar or dissimilar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of a guarantor or surety or which otherwise might limit recourse against the Borrower or the Guarantor to the fullest extent permitted by law.

4. Waivers. The Guarantor expressly and unconditionally waives (i) notice of any of the matters referred to in Section 3 above, (ii) all notices which may be required by statute, rule of law or otherwise, now or hereafter in effect, to preserve intact any rights against the Guarantor, including, without limitation, any demand, presentment and protest, proof of notice of non-payment under any of the Loan Documents and notice of any Event of Default or any failure on the part of the Borrower, the Guarantor or any other guarantor of the Obligations to perform or comply with any covenant, agreement, term or condition of any of the Loan Documents, (iii) any right to the enforcement, assertion or exercise against the Borrower, the Guarantor or any other guarantor of the Obligations of any right or remedy conferred under any of the Loan Documents, (iv) any requirement of diligence on the part of any person or entity, (v) to the

fullest extent permitted by law and except as otherwise expressly provided in this Guaranty or the other Loan Documents, any claims based on allegations that Lender has failed to act in a commercially reasonable manner or failed to exercise Lender's so-called obligation of good faith and fair dealing, (vi) any requirement to exhaust any remedies or to mitigate the damages resulting from any default under any of the Loan Documents and (vii) any notice of any sale, transfer or other disposition of any right, title or interest of the Lender under any of the Loan Documents.

5. Subordination. The Guarantor agrees that any and all present and future debts and obligations of the Borrower to the Guarantor are hereby subordinated to the claims of the Lender and are hereby assigned by the Guarantor to the Lender as security for the Obligations and the obligations of the Guarantor under this Guaranty.

6. Subrogation Waiver. Until the Obligations are paid in full and all periods under applicable bankruptcy law for the contest of any payment by the Guarantor or the Borrower as a preferential or fraudulent payment have expired, the Guarantor knowingly, and with advice of counsel, waives, relinquishes, releases and abandons all rights and claims to indemnification, contribution, reimbursement, subrogation and payment which the Guarantor may now or hereafter have by and from the Borrower and the successors and assigns of the Borrower, for any payments made by the Guarantor to the Lender, including, without limitation, any rights which might allow the Borrower, the Borrower's successors, a creditor of the Borrower, or a trustee in bankruptcy of the Borrower to claim in bankruptcy or any other similar proceedings that any payment made by the Borrower or the Borrower's successors and assigns to the Lender was on behalf of or for the benefit of the Guarantor and that such payment is recoverable by the Borrower, a creditor or trustee in bankruptcy of the Borrower as a preferential payment, fraudulent conveyance, payment of an insider or any other classification of payment which may otherwise be recoverable from the Lender.

7. Reinstatement. The obligations of the Guarantor pursuant to this Guaranty shall continue to be effective or automatically be reinstated, as the case may be, if at any time payment of any of the Obligations or the obligations of the Guarantor under this Guaranty is rescinded or otherwise must be restored or returned by the Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Guarantor or the Borrower or otherwise, all as though such payment had not been made.

8. Financial Statements. The Guarantor represents and warrants to the Lender that (a) the financial statements of the Guarantor previously submitted to the Lender are true, complete and correct in all material respects, disclose all actual and contingent liabilities, and fairly present the financial condition of the Guarantor, and do not contain any untrue statement of a material fact or omit to state a fact material to the financial statements submitted or this Guaranty, and (b) no material adverse change has occurred in the financial statements from the dates thereof until the date hereof. The Guarantor shall furnish to the Lender annual financial statements for each calendar year no later than one hundred twenty (120) days after the end of such years certified by the Guarantor as true, complete and correct and otherwise in a form substantially similar to the form of financial statements previously submitted by the Guarantor to the Lender, unless otherwise approved in writing by the Lender.

9. Transfers; Sales, Etc. The Guarantor shall not sell, lease, transfer, convey or assign any of its assets, unless such sale, lease, transfer, conveyance or assignment is performed in the ordinary course of its business consistent with past practices, and will not have a material adverse effect on the business or financial condition of the Guarantor or its ability to perform its obligations hereunder. In addition, the Guarantor shall neither become a party to any merger or consolidation, nor, except in the ordinary course of its business consistent with past practices, acquire all or substantially all of the assets of, a controlling interest in the stock of, or a partnership or joint venture interest in, any other entity.

10. Enforcement Costs. If: (a) this Guaranty, is placed in the hands of one or more attorneys for collection or is collected through any legal proceeding; (b) one or more attorneys is retained to represent the Lender in any bankruptcy, reorganization, receivership or other proceedings affecting creditors' rights and involving a claim under this Guaranty, or (c) one or more attorneys is retained to represent the Lender in any other proceedings whatsoever in connection with this Guaranty, then the Guarantor shall pay to the Lender upon demand all fees, costs and expenses incurred by the Lender in connection therewith, including, without limitation, reasonable attorney's fees, court costs and filing fees (all of which are referred to herein as the "Enforcement Costs"), in addition to all other amounts due hereunder.

11. Successors and Assigns; Joint and Several Liability. This Guaranty shall inure to the benefit of the Lender and its successors and assigns. This Guaranty shall be binding on the Guarantor and the successors and assigns of the Guarantor. It is agreed that the liability of the Guarantor hereunder is several and independent of any other guarantees or other obligations at any time in effect with respect to the Obligations or any part thereof and that the liability of the Guarantor hereunder may be enforced regardless of the existence, validity, enforcement or non-enforcement of any such other guarantees or other obligations.

12. No Waiver of Rights. No delay or failure on the part of the Lender to exercise any right, power or privilege under this Guaranty or any of the other Loan Documents shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege shall preclude any other or further exercise thereof or the exercise of any other power or right, or be deemed to establish a custom or course of dealing or performance between the parties hereto. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in the same, similar or other circumstance.

13. Modification. The terms of this Guaranty may be waived, discharged, or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. No amendment, modification, waiver or other change of any of the terms of this Guaranty shall be effective without the prior written consent of the Lender.

14. Joinder. Any action to enforce this Guaranty may be brought against the Guarantor without any reimbursement or joinder of the Borrower or any other guarantor of the Obligations in such action.

15. Severability. If any provision of this Guaranty is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Guarantor and the Lender shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Guaranty and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

16. Applicable Law. This Guaranty is governed as to validity, interpretation, effect and in all other respects by laws and decisions of the State of Illinois.

17. Notices. All notices, communications and waivers under this Guaranty shall be in writing and shall be (a) delivered in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (c) by overnight express carrier, addressed in each case as follows:

To Lender:

LaSalle Bank National Association
Suite 1225
135 South LaSalle Street
Chicago, Illinois 60603
Attn: Don Broderick
Vice President

and with a copy to:

Schwartz, Cooper, Greenberger & Krauss,
Chartered
180 North LaSalle Street, Suite 2700
Chicago, Illinois 60601
Attn: Michael S. Kurtzon, Esq.

to Guarantor:

Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Senior Vice President, Real Estate,
Finance and Sales

with a copy to:

Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Legal Department

with a copy to:

Greenberg Traurig, LLP
600 Three Galleria Tower
13155 Noel Road
Dallas, TX 75240
Attn: Tina M. Ross, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other parties hereto. All notices sent pursuant to the terms of this Section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

18. CONSENT TO JURISDICTION. TO INDUCE THE LENDER TO ACCEPT THIS GUARANTY, THE GUARANTOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS GUARANTY WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. THE GUARANTOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE GUARANTOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

19. WAIVER OF DEFENSES. OTHER THAN CLAIMS BASED UPON THE FAILURE OF THE LENDER TO ACT IN A COMMERCIALLY REASONABLE MANNER, THE GUARANTOR WAIVES EVERY PRESENT AND FUTURE DEFENSE (OTHER THAN THE DEFENSE OF PAYMENT IN FULL), CAUSE OF ACTION, COUNTERCLAIM OR

SETOFF WHICH THE GUARANTOR OR THE BORROWER MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY LENDER IN ENFORCING THIS GUARANTY OR ANY OF THE LOAN DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER'S GRANTING ANY FINANCIAL ACCOMMODATION TO THE BORROWER.

20. WAIVER OF JURY TRIAL. THE GUARANTOR AND THE LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE GUARANTOR AGREES THAT THE GUARANTOR WILL NOT ASSERT ANY CLAIM AGAINST THE LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[redacted]

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty as of the date first above written.

OPUS WEST CORPORATION, a Minnesota corporation

By: ______________________
Name: Thomas M. Roberts
Its: President

[redacted]

ATTACHMENT 10

Quarles & Brady LLP

One Renaissance Square
Two North Central Avenue
Phoenix, Arizona 85004-2391
Tel 602.229.5200
Fax 602.229.5690
www.quarles.com

Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples, Florida
Chicago, Illinois
Milwaukee and Madison, Wisconsin

April 6, 2009

DEFAULT NOTICE

VIA UPS OVERNIGHT

Broadstone Galleria, L.P.
c/o Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Senior Vice President, Real Estate, Finance & Sales

Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Senior Vice President, Real Estate, Finance & Sales

RE: ***$45,850,000.00 Loan (the "Loan") made by Bank of America, N.A., a national banking association and successor by merger to LaSalle Bank National Association ("Lender") to Broadstone Galleria, L.P., a Delaware limited partnership ("Borrower")***

Ladies and Gentlemen:

The purpose of this letter is to provide you with notice of the occurrence of a default (the "Specified Default") under Section 3.2(c) of the Construction Loan Agreement dated June 30, 2006 between Borrower and Lender (the "Loan Agreement"), and Section 4.1(a) of the Amended And Restated Promissory Note of even date therewith, made by Borrower and delivered to Lender (the "Note"). The Loan Agreement, Note, and all other agreements, documents and instruments evidencing, securing or otherwise relating to the Loan are sometimes referred to individually and collectively herein as the "Loan Documents." Borrower is in default as the result of the Borrower's failure to make the installment payment of interest due on April 1, 2009 (the "Due Date") as required under the Loan Documents. If payment is not received in good funds on or before April 8, 2009, then such failure will constitute a Event of Default under the Loan Agreement and Note. Late charges (as described in and calculated according to Section 4.4 of the Note) will apply to the defaulted amounts. Interest at the Default Rate (as defined and provided for in and calculated according to Section 12.5 of the Loan Agreement and Section 2.2 of the Note) will commence and accrue from and after April 9, 2009 on any amounts outstanding as of such date.

Notwithstanding the existence of the above-described Specified Default, or any additional defaults that may arise under the Loan Documents, Lender reserves the right to elect whether or not to fund any presently pending or future draw requests during the existence of any default or Event of Default. To the extent Lender elects to fund any such draw request, neither such election nor the actual funding thereof does or shall: constitute a commitment to lend or to modify the Loan; constitute an offer to extend credit or modify the existing Loan terms; constitute a waiver by Lender of the Specified Default or performance or cure of the Specified Default by Borrower; constitute an amendment of any term or condition of any Loan Document; create an obligation of Lender to agree to, or to negotiate or consider an agreement to, any waiver of any obligation or default by Borrower under any Loan; or directly or indirectly impair or otherwise affect any of Lender's rights, interests or remedies with respect to the Loan.

Lender hereby also reserves the right to accept payments made after the date of this letter even though such payments are not offered as, or are insufficient to, cure the Specified Default described herein or reinstate the Loan pursuant to the provisions of the law governing the jurisdiction in which the Project is located. Lender may apply such payments in the order provided in the Loan Agreement or other Loan Documents.

In the event the foregoing Specified Default is not cured on or before April 8, 2009 by payment in full of all amounts due and owing under the Loan Agreement as of April 1, 2009, plus any and all accrued Default Rate interest, Late Charges, costs and fees (including attorneys' fees): (i) Lender is entitled to the exercise of its rights and remedies under the Loan Documents, at law and in equity, including, without limitation, acceleration of the indebtedness due under the Loan Documents and the imposition of Default Rate interest, late charges and other charges recoverable as a consequence of the Specified Default (including attorneys' fees and costs); and (ii) Lender is entitled to enforce its rights and remedies relating to its collateral, including, without limitation, appointment of receiver and foreclosure. Please contact me for payment information relating to the Loan.

Nothing in this letter or in Lender's application of such payments is or shall be deemed to be a waiver, election or estoppel of any rights, remedies, defenses and objections available to Lender and its affiliated entities under the Loan Agreement and related Loan Documents and under applicable laws and in equity in connection with any default by Borrower, and Lender expressly reserves all such rights, remedies, defenses and objections, including with respect to any defaults now or hereafter in existence, whether known or unknown, to Lender, that are not referenced in this letter.

Opus West Corporation ("Guarantor") guaranteed the payment and performance of the Loan and Borrower's obligations under the Loan Documents under that certain instrument entitled Guaranty Of Payment dated June 30, 2006 (the

"Guaranty"). Demand is hereby made on Guarantor for prompt payment or performance of Borrower's obligations under the Specified Default described herein.

Please give this matter your immediate attention.

Very truly yours,

QUARLES & BRADY LLP

Lori L. Winkelman

cc: Casey Carpenter, Bank of America
Daniel Denton, Esq., Bank of America
Brian Sirower, Esq.

Via UPS Overnight:
Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Legal Department

Via UPS Overnight:
Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Legal Department

Via UPS Overnight:
Greenberg Traurig, LLP
600 Three Galleria Tower
13155 Noel Road
Dallas, TX 75240
Attn: Tina M. Ross, Esq.

Via First Class Mail
JOSHUA D. WAYSER
Katten Muchin Rosenman LLP
2029 Century Park East, Suite 2600
Los Angeles, CA 90067-3012

Quarles & Brady LLP

One Renaissance Square
Two North Central Avenue
Phoenix, Arizona 85004-2391
Tel 602.229.5200
Fax 602.229.5690
www.quarles.com

Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples, Florida
Chicago, Illinois
Milwaukee and Madison, Wisconsin

April 9, 2009

DEFAULT NOTICE

VIA UPS OVERNIGHT

Broadstone Galleria, L.P.
c/o Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, AZ 85016
Attn: Senior Vice President, Real Estate, Finance & Sales

Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Senior Vice President, Real Estate, Finance & Sales

RE: *$45,850,000 Loan (the "Loan") made by Bank of America, N.A., successor by merger to LaSalle Bank National Association ("Lender") to Broadstone Galleria, L.P. ("Borrower")*

Ladies and Gentlemen:

The purpose of this letter is to provide you with notice of the occurrence of an Event of Default under Section 11.1(s) of the Construction Loan Agreement dated June 30, 2006 between Borrower and Lender (as amended from time to time, the "Loan Agreement") and under Section 6(b) of the Amended And Restated Promissory Note of even date therewith, made by Borrower and delivered to Lender (the "Note"). The Loan Agreement, Note and all other agreements, documents and instruments evidencing, securing or otherwise relating to the Loan are sometimes referred to individually and collectively as the "Loan Documents". Borrower has informed Lender that, for the fiscal quarter ended December 31, 2008, Opus West Corporation ("Guarantor") will fail to satisfy the Total Liabilities to Tangible Net Worth requirement of not exceeding 6.0 to 1.0 on a consolidated basis as required under Section 8.15 of the Loan Agreement. Guarantor's failure to meet the requirements of Section 8.15 of the Loan Agreement constitutes an immediate Event of Default under Section 11.1(s) of the Loan Agreement (the "Specified Event of Default"). As a result of the Specified Event of Default, interest at the Default Rate (provided in and calculated according to Section 12.5 of the Loan Agreement and Section 2.2 of the Note) will accrue from and after April 10, 2009 on any amounts outstanding as of such date.

Notwithstanding the existence of the above-described Specified Event of Default, or any additional defaults that may arise under the Loan Documents, Lender reserves the right to elect whether or not to fund any presently pending or future draw requests during the existence of any default or Event of Default. To the extent Lender elects to fund any such draw request, neither such election nor the actual funding thereof does or shall: constitute a commitment to lend or to modify the Loan; constitute an offer to extend credit or modify the existing Loan terms; constitute a waiver by Lender of the Specified Event of Default or performance or cure of the Specified Event of Default by Borrower; constitute an amendment of any term or condition of any Loan Document; create an obligation of Lender to agree to, or to negotiate or consider an agreement to, any waiver of any obligation or default by Borrower under any Loan; or directly or indirectly impair or otherwise affect any of Lender's rights, interests or remedies with respect to the Loan.

As a result of the Specified Event of Default: (i) Lender is entitled to the exercise of its rights and remedies under the Loan Documents, at law and in equity, including, without limitation, acceleration of the indebtedness due under the Loan Documents and the imposition of Default Rate interest and other charges recoverable as a consequence of the Specified Event of Default (including attorneys' fees and costs); and (ii) Lender is entitled to enforce its rights and remedies relating to its collateral, including, without limitation, appointment of receiver and foreclosure.

Any failure or delay by Lender in exercising any right, power, or remedy under the Loan Agreement or the other Loan Documents, at law or in equity: (i) shall not operate as a waiver of such right, power, or remedy, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power, or remedy, and (ii) shall not be sufficient, by itself or together with any other action or inaction by Lender, to establish a course of dealing or course of conduct by Lender upon which Borrower shall be entitled to rely.

Lender hereby reserves the right to accept payments made after the date of this letter even though such payments are not offered as, or are insufficient to, cure the Specified Event of Default described herein or reinstate the Loan pursuant to the provisions of the law governing the jurisdiction in which the project is located. Lender may apply such payments in the order provided in the Loan Agreement or other Loan Documents.

Nothing in this letter or in Lender's application of such payments is or shall be deemed to be a waiver, election or estoppel of any rights, remedies, defenses and objections available to Lender and its affiliated entities under the Loan Agreement and related Loan Documents and under applicable laws and in equity in connection with any default by Borrower, and Lender expressly reserves all such rights, remedies, defenses and objections, including with respect to any defaults now or hereafter in existence, whether known or unknown, to Lender, that are not referenced in this letter.

Please give this matter your immediate attention.

Very truly yours,

QUARLES & BRADY LLP

Lori L. Winkelman

cc: Casey Carpenter, Bank of America
Daniel Denton, Esq., Bank of America
Brian Sirower, Esq.

Via UPS Overnight:
Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Legal Department

Via UPS Overnight:
Greenberg Traurig, LLP
2200 Ross Avenue
Room 5200
Dallas, TX 75201
Attn: Tina M. Ross, Esq.

Via UPS Overnight:
Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Legal Department

Via UPS Overnight:
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Attn: Tina M. Ross, Esq.

Via First Class Mail
Joshua D. Wayser
Katten Muchin Rosenman LLP
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Quarles & Brady LLP

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Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples, Florida
Chicago, Illinois
Milwaukee and Madison, Wisconsin

May 5, 2009

DEFAULT NOTICE

VIA UPS OVERNIGHT

Broadstone Galleria, L.P.
c/o Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Senior Vice President, Real Estate, Finance & Sales

Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Senior Vice President, Real Estate, Finance & Sales

RE: ***$45,850,000.00 Loan (the "Loan") made by Bank of America, N.A., a national banking association and successor by merger to LaSalle Bank National Association ("Lender") to Broadstone Galleria, L.P., a Delaware limited partnership ("Borrower")***

Ladies and Gentlemen:

The purpose of this letter is to provide you with notice of the occurrence of a default (the "Specified Default") under Section 3.2(c) of the Construction Loan Agreement dated June 30, 2006 between Borrower and Lender (the "Loan Agreement"), and Section 4.1(a) of the Amended And Restated Promissory Note of even date therewith, made by Borrower and delivered to Lender (the "Note"). The Loan Agreement, Note, and all other agreements, documents and instruments evidencing, securing or otherwise relating to the Loan are sometimes referred to individually and collectively herein as the "Loan Documents". Borrower is in default as the result of the Borrower's failure to make the installment payment of interest due on May 1, 2009 (the "Due Date") as required under the Loan Documents. If payment is not received in good funds on or before May 6, 2009, then such failure will constitute a Event of Default under the Loan Agreement and Note. Late charges (as described in and calculated according to Section 4.4 of the Note) will apply to the defaulted amounts. Interest at the Default Rate (as defined and provided for in and calculated according to Section 12.5 of the Loan Agreement and Section 2.2 of the Note) will continue to accrue on any and all amounts outstanding.

Notwithstanding the existence of the above-described Specified Default, or any additional defaults that may arise under the Loan Documents, Lender reserves the right to elect whether or not to fund any presently pending or future draw requests during the existence of any default or Event of Default. To the extent Lender elects to fund any such draw request, neither such election nor the actual funding thereof does or shall: constitute a commitment to lend or to modify the Loan; constitute an offer to extend credit or modify the existing Loan terms; constitute a waiver by Lender of the Specified Default or performance or cure of the Specified Default by Borrower; constitute an amendment of any term or condition of any Loan Document; create an obligation of Lender to agree to, or to negotiate or consider an agreement to, any waiver of any obligation or default by Borrower under any Loan; or directly or indirectly impair or otherwise affect any of Lender's rights, interests or remedies with respect to the Loan.

Lender hereby also reserves the right to accept payments made after the date of this letter even though such payments are not offered as, or are insufficient to, cure the Specified Default described herein or reinstate the Loan pursuant to the provisions of the law governing the jurisdiction in which the Project is located. Lender may apply such payments in the order provided in the Loan Agreement or other Loan Documents.

In the event the foregoing Specified Default is not cured on or before May 6, 2009 by payment in full of all amounts due and owing under the Loan Agreement as of May 1, 2009, plus any and all accrued Default Rate interest, Late Charges, costs and fees (including attorneys' fees): (i) Lender is entitled to the exercise of its rights and remedies under the Loan Documents, at law and in equity, including, without limitation, acceleration of the indebtedness due under the Loan Documents and the imposition of Default Rate interest, late charges and other charges recoverable as a consequence of the Specified Default (including attorneys' fees and costs); and (ii) Lender is entitled to enforce its rights and remedies relating to its collateral, including, without limitation, appointment of receiver and foreclosure. Please contact me for payment information relating to the Loan.

Nothing in this letter or in Lender's application of such payments is or shall be deemed to be a waiver, election or estoppel of any rights, remedies, defenses and objections available to Lender and its affiliated entities under the Loan Agreement and related Loan Documents and under applicable laws and in equity in connection with any default by Borrower, and Lender expressly reserves all such rights, remedies, defenses and objections, including with respect to any defaults now or hereafter in existence, whether known or unknown, to Lender, that are not referenced in this letter.

Opus West Corporation ("Guarantor") guaranteed the payment and performance of the Loan and Borrower's obligations under the Loan Documents under that certain instrument entitled Guaranty Of Payment dated June 30, 2006 (the

"Guaranty"). Demand is hereby made on Guarantor for prompt payment or performance of Borrower's obligations under the Specified Default described herein.

Please give this matter your immediate attention.

Very truly yours,

QUARLES & BRADY LLP

Lori L. Winkelman

cc: Casey Carpenter, Bank of America
Daniel Denton, Esq., Bank of America
Brian Sirower, Esq.

Via UPS Overnight:
Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Legal Department

Via UPS Overnight:
Opus West Corporation
2555 East Camelback Road, Suite 800
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Attn: Tina M. Ross, Esq.

Via First Class Mail
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Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples, Florida
Chicago, Illinois
Milwaukee and Madison, Wisconsin

June 16, 2009

DEFAULT NOTICE

VIA UPS OVERNIGHT

Broadstone Galleria, L.P.
c/o Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Senior Vice President, Real Estate, Finance & Sales

Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Senior Vice President, Real Estate, Finance & Sales

RE: ***$45,850,000.00 Loan (the "Loan") made by Bank of America, N.A., a national banking association and successor by merger to LaSalle Bank National Association ("Lender") to Broadstone Galleria, L.P., a Delaware limited partnership ("Borrower")***

Ladies and Gentlemen:

The purpose of this letter is to provide you with notice of the occurrence of an Event of Default (the "Event of Default") under Section 11.1(a) of the Construction Loan Agreement dated June 30, 2006 between Borrower and Lender (the "Loan Agreement"), and Section 6(a) of the Amended And Restated Promissory Note of even date therewith, made by Borrower and delivered to Lender (the "Note"). The Loan Agreement, Note, and all other agreements, documents and instruments evidencing, securing or otherwise relating to the Loan are sometimes referred to individually and collectively herein as the "Loan Documents". The Event of Default has occurred as a result of the Borrower's failure to make the installment payment of interest due on June 1, 2009 (the "Due Date") as required under the Loan Documents. Late charges (as described in and calculated according to Section 4.4 of the Note) will apply to the defaulted amounts. Interest at the Default Rate (as defined and provided for in and calculated according to Section 12.5 of the Loan Agreement and Section 2.2 of the Note) will continue to accrue on any and all amounts outstanding.

Notwithstanding the existence of the above-described Event of Default, or any additional defaults that may arise under the Loan Documents, Lender reserves the right to elect whether or not to fund any presently pending or future draw requests during the existence of any default or Event of Default. To the extent Lender elects to fund any such draw request, neither such election nor the actual funding thereof does or shall: constitute a commitment to lend or to modify the Loan; constitute an offer to extend credit or modify the existing Loan terms; constitute a waiver by Lender of the Event of Default or performance or cure of the Event of Default by Borrower; constitute an amendment of any term or condition of any Loan Document; create an obligation of Lender to agree to, or to negotiate or consider an agreement to, any waiver of any obligation or default by Borrower under any Loan; or directly or indirectly impair or otherwise affect any of Lender's rights, interests or remedies with respect to the Loan.

Lender hereby also reserves the right to accept payments made after the date of this letter even though such payments are not offered as, or are insufficient to, cure the Event of Default described herein or reinstate the Loan pursuant to the provisions of the law governing the jurisdiction in which the Project is located. Lender may apply such payments in the order provided in the Loan Agreement or other Loan Documents.

As a result of the Event of Default: (i) Lender is entitled to the exercise of its rights and remedies under the Loan Documents, at law and in equity, including, without limitation, acceleration of the indebtedness due under the Loan Documents and the imposition of Default Rate interest, late charges and other charges recoverable as a consequence of the Event of Default (including attorneys' fees and costs); and (ii) Lender is entitled to enforce its rights and remedies relating to its collateral, including, without limitation, appointment of receiver and foreclosure. Please contact me for payment information relating to the Loan.

Nothing in this letter or in Lender's application of such payments is or shall be deemed to be a waiver, election or estoppel of any rights, remedies, defenses and objections available to Lender and its affiliated entities under the Loan Agreement and related Loan Documents and under applicable laws and in equity in connection with any default by Borrower, and Lender expressly reserves all such rights, remedies, defenses and objections, including with respect to any defaults now or hereafter in existence, whether known or unknown, to Lender, that are not referenced in this letter.

Opus West Corporation ("Guarantor") guaranteed the payment and performance of the Loan and Borrower's obligations under the Loan Documents under that certain instrument entitled Guaranty Of Payment dated June 30, 2006 (the "Guaranty"). Demand is hereby made on Guarantor for prompt payment or performance of Borrower's obligations under the Event of Default described herein.

Please give this matter your immediate attention.

Very truly yours,

QUARLES & BRADY LLP

, for

Lori L. Winkelman

cc: Casey Carpenter, Bank of America
Daniel Denton, Esq., Bank of America
Brian Sirower, Esq.

Via UPS Overnight:
Opus West Corporation
2555 East Camelback Road, Suite 800
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Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples, Florida
Chicago, Illinois
Milwaukee and Madison, Wisconsin

July 1, 2009

VIA UPS OVERNIGHT

Broadstone Galleria, L.P.
c/o Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Senior Vice President, Real Estate, Finance & Sales

Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016-9267
Attn: Senior Vice President, Real Estate, Finance & Sales

RE: ***Construction Loan Agreement dated June 30, 2006 (the "Loan Agreement") pursuant to which Bank of America, N.A., a national banking association and successor by merger to LaSalle Bank National Association ("Lender") made a $45,850,000.00 Loan (the "Loan") to Broadstone Galleria, L.P., a Delaware limited partnership ("Borrower") as evidenced by that certain Amended And Restated Promissory Note of even date therewith, made by Borrower and delivered to Lender (the "Note")***

Ladies and Gentlemen:

The purpose of this letter is to provide you with notice of the occurrence of a default (hereinafter, the "Maturity Default") under Section 3.3 of the Loan Agreement and under Section 1 of the Note. The Loan Agreement, Note and all other agreements, documents and instruments evidencing, securing or otherwise relating to the Loan are referred to individually and collectively as the "Loan Documents". The Loan is fully matured and all amounts due in connection with the Loan are fully due and payable. Borrower is in default as the result of Borrower's failure to pay the full amount of principal and interest due and owing on the Maturity Date (as defined in the Loan Agreement), and the conditions for extending the Maturity Date set forth in Section 16 of the Note have not been satisfied. Late charges (as described in and calculated according to in Section 4.4 of the Note) will apply to the defaulted amounts. Interest at the Past Due Rate (provided in and calculated according to Section 2.2 of the Note) commenced accruing from and after the Maturity Date on the unpaid principal balance as of such date.

Notwithstanding the existence of the above-described Maturity Default, or any additional defaults that may arise under the Loan Documents, Lender reserves the right to elect whether or not to fund any presently pending or future draw requests during the existence of any default or Event of Default. To the extent Lender elects to fund any such draw request, neither such election nor the actual funding thereof does or shall: constitute a commitment to lend or to modify the Loan; constitute an offer to extend credit or modify the existing Loan terms; constitute a waiver by Lender of the Maturity Default or performance or cure of the Maturity Default by Borrower; constitute an amendment of any term or condition of any Loan Document; create an obligation of Lender to agree to, or to negotiate or consider an agreement to, any waiver of any obligation or default by Borrower under any Loan; or directly or indirectly impair or otherwise affect any of Lender's rights, interests or remedies with respect to the Loan.

Lender hereby also reserves the right to accept payments made after the date of this letter even though such payments are not offered as, or are insufficient to, cure the Maturity Default described herein or reinstate the Loan pursuant to the provisions of the law governing the jurisdiction in which the project is located. Lender may apply such payments in the order provided in the Loan Agreement or other Loan Documents.

In the event the foregoing Maturity Default is not cured on or before July 8, 2009 by payment in full of all amounts due and owing under the Loan Documents, including without limitation, Default Rate interest, late charges, costs and fees (including attorneys' fees): (i) Lender is entitled to the exercise of its rights and remedies under the Loan Documents, at law and in equity, including, without limitation, the imposition of charges recoverable as a consequence of the Maturity Default (including attorneys' fees and costs); and (ii) Lender is entitled to enforce its rights and remedies relating to its collateral, including, without limitation, appointment of receiver and foreclosure. Please contact me for payoff information relating to the Loan.

Nothing in this letter or in Lender's application of such payments is or shall be deemed to be a waiver, election or estoppel of any rights, remedies, defenses and objections available to Lender and its affiliated entities under the Loan Agreement and related Loan Documents and under applicable laws and in equity in connection with any default by Borrower, and Lender expressly reserves all such rights, remedies, defenses and objections, including with respect to any defaults now or hereafter in existence, whether known or unknown, to Lender, that are not referenced in this letter.

Opus West Corporation (the "Guarantor") guaranteed the payment and performance of the Loan and Borrower's obligations under the Loan Documents under that certain instrument entitled Guaranty Of Payment dated June 30, 2006. Demand is hereby made on Guarantor for prompt payment or performance of Borrower's obligations under the Maturity Default described herein.

Please give this matter your immediate attention.

Very truly yours,

QUARLES & BRADY LLP

Lori L. Winkelman

cc: Casey Carpenter, Bank of America
Daniel Denton, Esq., Bank of America
Brian Sirower, Esq.

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Opus West Corporation
2555 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Legal Department

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Attn: Tina M. Ross, Esq.

Via First Class Mail
Joshua D. Wayser
Katten Muchin Rosenman LLP
2029 Century Park East, Suite 2600
Los Angeles, CA 90067-3012

Northern District of Texas
Claims Register

09-34356-hdh11 Opus West Corporation

Judge: Harlin DeWayne Hale **Chapter:** 11

Office: Dallas **Last Date to file claims:** 11/09/2009

Trustee: **Last Date to file (Govt):**

Creditor: (12791347) BANK OF AMERICA, N.A. c/o Casey Carpenter Vice President Real Estate Special Assets 333 S. Hope St., 11th Floor Los Angeles, CA 90071-1406	**Claim No: 78** *Original Filed Date*: 11/09/2009 *Original Entered Date*: 11/09/2009	*Status:* *Filed by:* CR *Entered by:* Richter, Katharine *Modified:*

Unsecured claimed: $43384921.86

Total claimed: $43384921.86

History:

Details 78-1 11/09/2009 Claim #78 filed by BANK OF AMERICA, N.A., total amount claimed: $43384921.86 (Richter, Katharine)

Description: (78-1) Broadstone Galleria

Remarks: (78-1) But see Addendum for possible secured status

Claims Register Summary