

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): DECEMBER 16, 1997

BAY APARTMENT COMMUNITIES, INC.
(Exact name of Registrant as specified in charter)

----- MARYLAND ----- (State or other jurisdiction of incorporation)	----- 1-12672 ----- (Commission file number)	----- 77-0404318 ----- (IRS employer identification no.)
---	--	--

4340 STEVENS CREEK BOULEVARD, SUITE 275, SAN JOSE, CA 95129

(Address of principal executive offices) (Zip Code)

(408) 983-1500

(Registrant's telephone number, including area code)

ITEM 5. OTHER EVENTS.

This Current Report on Form 8-K of Bay Apartment Communities, Inc. (the "Company") contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. The forward-looking statements contained herein are statements that involve risks and uncertainties, including, but not limited to, the demand for apartment homes, the effects of economic conditions, the impact of competition and competitive pricing, changes in construction costs, the results of financing efforts, potential acquisitions under agreement, the effects of the Company's accounting policies and other risks detailed in the Company's filings with the Securities and Exchange Commission (the "Commission").

AMENDMENT OF CREDIT FACILITY

On November 21, 1997, the Company amended its \$200 million unsecured acquisition and construction line of credit (the "Unsecured Credit Facility") from Union Bank of Switzerland and other participating banks, which was originally received in May 1996, amended in August 1996, and subsequently amended and restated on July 2, 1997. Under the terms of the Second Amended and Restated Revolving Loan Agreement, the maximum revolving credit amount was increased to \$350 million. The Unsecured Credit Facility bears interest at the London Interbank Offered Rate (based on a maturity selected by the Company) plus 0.90% per annum and matures in May 2000.

PROPERTY ACQUISITION

GOVERNOR'S SQUARE. On December 11, 1997, the Company acquired a 302 apartment home community located in Sacramento, California from GSW Associates, Ltd. & GSE Associates, Ltd. The purchase price for this community was approximately \$24.8 million, which included \$14.4 million of assumed indebtedness. The amount of the purchase price payable to the seller at closing, approximately \$10.3 million, was funded by drawing on the Company's Unsecured

Credit Facility. Neither the Company, any subsidiary of the Company nor any director or officer of the Company was affiliated with or had a material relationship with the seller of this community. This community was previously described in the Company's Current Report on Form 8-K, dated October 31, 1997, under the section "Proposed Acquisitions," and the financial statements required under Rule 3-14 of Regulation S-X were filed therewith.

Following this acquisition, the Company's portfolio consists of 49 communities containing 13,124 apartment homes (including apartment homes delivered at Toscana, a partially developed community) and six land sites on which it is building, or plans to commence building in the future, six communities, which will contain an aggregate of approximately 1,698 apartment homes (including the remaining apartment homes under construction at Toscana).

PROPOSED ACQUISITIONS

The following are proposed acquisition communities. The Company anticipates that these proposed acquisitions will be funded by drawing on the Company's Unsecured Credit Facility and working capital. Because the purchase of each of the proposed acquisition communities is still pending, there can be no assurance that the Company will consummate the acquisition of any or all of the proposed acquisition communities or, if acquired, that they will be purchased on the terms currently contemplated. Neither the Company, any subsidiary of the Company nor any director or officer of the Company is affiliated with or has a material relationship with the seller of the proposed acquisition communities described below.

WATERHOUSE PLACE ACQUISITION COMMUNITY. The Company has agreed to purchase a 279 apartment home community located in Beaverton, Oregon from Pacific Gulf Properties, Inc. The purchase price for this community is anticipated to be approximately \$15.6 million. This acquisition is expected to close in December 1997.

MISSION BAY CLUB ACQUISITION COMMUNITY. The Company has agreed to purchase a 564 apartment home community located in San Diego, California from The Travelers Insurance Company. The purchase price for this community is anticipated to be approximately \$43.8 million. This acquisition is expected to close in December 1997.

WESTWOOD CLUB ACQUISITION COMMUNITY. The Company has agreed to purchase a 363 apartment home community located in Los Angeles, California from The Travelers Insurance Company. The purchase price for this community is anticipated to be approximately \$32.1 million. This acquisition is expected to close in December 1997.

PACIFICA CLUB ACQUISITION COMMUNITY. The Company has agreed to purchase a 304 apartment home community located in Huntington Beach, California from The Travelers Insurance Company. The purchase price for this community is anticipated to be approximately \$26.8 million. This acquisition is expected to close in December 1997.

AMBERWAY ACQUISITION COMMUNITY. The Company has agreed to purchase a 272 apartment home community located in Anaheim, California from The Travelers Insurance Company. The purchase price for this community is anticipated to be approximately \$17.5 million. This acquisition is expected to close in January 1998.

ARBOR PARK ACQUISITION COMMUNITY. The Company has agreed to purchase a 260 apartment home community located in Upland, California from The Travelers Insurance Company. The purchase price for this community is anticipated to be approximately \$12.4 million. This acquisition is expected to close in January 1998.

Each of the Mission Bay, Westwood Club, Pacifica Club, Amberway and Arbor Park Acquisition Communities will be acquired from The Travelers Insurance Company. The aggregate purchase price of \$102.7 million for the Mission Bay, Westwood Club and Pacifica Club Acquisition Communities, each of which the Company intends to acquire in December 1997, will be subject to an increase in the amount of \$2.3 million in the event the Company does not consummate the acquisition of each of the Amberway and Arbor Park Acquisition Communities in

January 1998.

ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS.

(a) Financial Statements under Rule 3-14 of Regulation S-X

(b) Pro Forma Financial Statements

(c) Exhibits

- 1.1 Underwriting Agreement dated December 8, 1997, between the Company and PaineWebber Incorporated, relating to the sale of 156,600 shares of the Company's common stock, par value \$.01 per share.
- 10.1 Second Amended and Restated Revolving Loan Agreement dated November 21, 1997, between the Company, Union Bank of Switzerland, as Co-Agent and Bank, Union Bank of California, N.A, as Co-Agent and Bank, Union Bank of Switzerland, as Administrative Agent, and the other Banks signatory thereto.
- 23.1 Consent of Coopers & Lybrand L.L.P., Independent Accountants.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Company has duly caused this report to be filed on its behalf by the undersigned thereunto duly authorized.

BAY APARTMENT COMMUNITIES, INC.

Dated: December 16, 1997

By:/s/ Jeffrey B. Van Horn

Name: Jeffrey B. Van Horn
Title: Vice President, Chief Financial Officer
and Secretary

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REPORT OF INDEPENDENT ACCOUNTANTS

Board of Directors
Bay Apartment Communities, Inc.:

We have audited the accompanying Historical Summary of Revenues and Direct Operating Expenses (the Historical Summary) of Arbor Park Apartments, Upland, California (the Property) for the 12 months ended May 31, 1997. The Historical Summary is the responsibility of the Property's owner. Our responsibility is to express an opinion on the Historical Summary based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Historical Summary is free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the Historical Summary. An audit also includes assessing the basis of accounting used and significant estimates made by management, as well as evaluating the overall presentation of the Historical Summary. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Historical Summary was prepared for the purpose of complying with rules and regulations of the Securities and Exchange Commission, as described in Note A, and is not intended to be a complete presentation of the Property's revenues and expenses and may not be comparable to results from

proposed future operations of the Property.

In our opinion, the Historical Summary referred to above presents fairly, in all material respects, the revenues and direct operating expenses, described in Note A, of Arbor Park Apartments, Upland, California, for the 12 months ended May 31, 1997, in conformity with generally accepted accounting principles.

COOPERS & LYBRAND L.L.P.

San Francisco, California
November 14, 1997

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ARBOR PARK APARTMENTS
HISTORICAL SUMMARY OF REVENUES AND
DIRECT OPERATING EXPENSES

<TABLE>
<CAPTION>

	Twelve Months Ended May 31, 1997 -----
<S>	<C>
Revenues:	
Rental income	\$1,623,510
Other	87,614

	1,711,124

Direct operating expenses:	
On-site management	226,801
Real property tax	112,022
Utilities	152,340
Repairs and maintenance	321,442
Other	49,881

	862,486

Revenue in excess of direct operating expenses	\$ 848,638
	=====

</TABLE>

The accompanying note is an integral
part of this Historical Summary

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ARBOR PARK APARTMENTS
NOTE TO HISTORICAL SUMMARY OF REVENUES
AND DIRECT OPERATING EXPENSES

A. PROPERTY AND BASIS OF ACCOUNTING:

The accompanying Historical Summary of Revenues and Direct Operating Expenses has been prepared in accordance with Rule 3-14 of Regulation S-X of the Securities and Exchange Commission and relates to the operations of Arbor Park Apartments located in Upland, California with 260 apartment homes.

In accordance with Rule 3-14, direct operating expenses are presented exclusive of depreciation, interest, management fees, and income taxes.

Rental income attributable to residential leases is recorded when due from tenants.

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REPORT OF INDEPENDENT ACCOUNTANTS

Board of Directors
Bay Apartment Communities, Inc.:

We have audited the accompanying Historical Summary of Revenues and Direct Operating Expenses (the Historical Summary) of Amberway Apartments, Anaheim, California (the Property) for the 12 months ended May 31, 1997. The Historical Summary is the responsibility of the Property's owner. Our responsibility is to express an opinion on the Historical Summary based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Historical Summary is free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the Historical Summary. An audit also includes assessing the basis of accounting used and significant estimates made by management, as well as evaluating the overall presentation of the Historical Summary. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Historical Summary was prepared for the purpose of complying with rules and regulations of the Securities and Exchange Commission, as described in Note A, and is not intended to be a complete presentation of the Property's revenues and expenses and may not be comparable to results from proposed future operations of the Property.

In our opinion, the Historical Summary referred to above presents fairly, in all material respects, the revenues and direct operating expenses, described in Note A, of Amberway Apartments, Anaheim, California, for the 12 months ended May 31, 1997, in conformity with generally accepted accounting principles.

COOPERS & LYBRAND L.L.P.

San Francisco, California
November 14, 1997

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AMBERWAY APARTMENTS

HISTORICAL SUMMARY OF REVENUES AND
DIRECT OPERATING EXPENSES

<TABLE>
<CAPTION>

	Twelve Months Ended May 31, 1997 -----
<S>	<C>
Revenues:	
Rental income	\$1,997,047
Other	117,828

	2,114,875

Direct operating expenses:	
On-site management	231,553
Real property tax	173,026
Utilities	70,775
Repairs and maintenance	348,880
Other	59,777

	884,011

Revenue in excess of direct operating expenses	\$1,230,864 =====

</TABLE>

The accompanying note is an integral
part of this Historical Summary

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AMBERWAY APARTMENTS

NOTE TO HISTORICAL SUMMARY OF REVENUES AND DIRECT OPERATING EXPENSES

A. PROPERTY AND BASIS OF ACCOUNTING:

The accompanying Historical Summary of Revenues and Direct Operating Expenses has been prepared in accordance with Rule 3-14 of Regulation S-X of the Securities and Exchange Commission and relates to the operations of Amberway Apartments located in Anaheim, California with 272 apartment homes.

In accordance with Rule 3-14, direct operating expenses are presented exclusive of depreciation, interest, management fees, and income taxes.

Rental income attributable to residential leases is recorded when due from tenants.

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REPORT OF INDEPENDENT ACCOUNTANTS

Board of Directors
Bay Apartment Communities, Inc.:

We have audited the accompanying Historical Summary of Revenues and Direct Operating Expenses (the Historical Summary) of Mission Bay Club Apartments, San Diego, California (the Property) for the 12 months ended May 31, 1997. The Historical Summary is the responsibility of the Property's owner. Our responsibility is to express an opinion on the Historical Summary based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Historical Summary is free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the Historical Summary. An audit also includes assessing the basis of accounting used and significant estimates made by management, as well as evaluating the overall presentation of the Historical Summary. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Historical Summary was prepared for the purpose of complying with rules and regulations of the Securities and Exchange Commission, as described in Note A, and is not intended to be a complete presentation of the Property's revenues and expenses and may not be comparable to results from proposed future operations of the Property.

In our opinion, the Historical Summary referred to above presents fairly, in all material respects, the revenues and direct operating expenses, described in Note A, of Mission Bay Club Apartments, San Diego, California, for the 12 months ended May 31, 1997, in conformity with generally accepted accounting principles.

COOPERS & LYBRAND L.L.P.

San Francisco, California
November 14, 1997

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MISSION BAY CLUB APARTMENTS

HISTORICAL SUMMARY OF REVENUES AND
DIRECT OPERATING EXPENSES

<TABLE>
<CAPTION>

	Twelve Months Ended May 31, 1997 -----
<S>	<C>
Revenues:	
Rental income	\$4,537,879
Other	318,305

	4,856,184

Direct operating expenses:	
On-site management	534,329
Real property tax	332,875
Utilities	337,877
Repairs and maintenance	782,162
Other	120,258

	2,107,501

Revenue in excess of direct operating expenses	\$2,748,683 =====

The accompanying note is an integral
part of this Historical Summary

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MISSION BAY CLUB APARTMENTS

NOTE TO HISTORICAL SUMMARY OF REVENUES
AND DIRECT OPERATING EXPENSES

A. PROPERTY AND BASIS OF ACCOUNTING:

The accompanying Historical Summary of Revenues and Direct Operating Expenses has been prepared in accordance with Rule 3-14 of Regulation S-X of the Securities and Exchange Commission and relates to the operations of Mission Bay Club Apartments located in San Diego, California with 564 apartment homes.

In accordance with Rule 3-14, direct operating expenses are presented exclusive of depreciation, interest, management fees, and income taxes.

Rental income attributable to residential leases is recorded when due from tenants.

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REPORT OF INDEPENDENT ACCOUNTANTS

Board of Directors
Bay Apartment Communities, Inc.:

We have audited the accompanying Historical Summary of Revenues and Direct Operating Expenses (the Historical Summary) of Pacifica Club Apartments, Huntington Beach, California (the Property) for the 12 months ended May 31, 1997. The Historical Summary is the responsibility of the Property's owner. Our responsibility is to express an opinion on the Historical Summary based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Historical Summary is free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the Historical Summary. An audit also includes assessing the basis of accounting used and significant estimates made by management, as well as evaluating the overall presentation of the Historical Summary. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Historical Summary was prepared for the purpose of complying with rules and regulations of the Securities and Exchange Commission, as described in Note A, and is not intended to be a complete presentation of the Property's revenues and expenses and may not be comparable to results from proposed future operations of the Property.

In our opinion, the Historical Summary referred to above presents fairly, in all material respects, the revenues and direct operating expenses, described in Note A, of Pacifica Club Apartments, Huntington Beach, California, for the 12 months ended May 31, 1997, in conformity with generally accepted accounting principles.

COOPERS & LYBRAND L.L.P.

San Francisco, California
November 14, 1997

PACIFICA CLUB APARTMENTS
HISTORICAL SUMMARY OF REVENUES AND
DIRECT OPERATING EXPENSES

<TABLE>
<CAPTION>

	Twelve Months Ended May 31, 1997

<S>	<C>
Revenues:	
Rental income	\$2,609,793
Other	169,096

	2,778,889

Direct operating expenses:	
On-site management	268,855
Real property tax	207,184
Utilities	128,990
Repairs and maintenance	327,544
Other	74,756

	1,007,329

Revenue in excess of direct operating expenses	\$1,771,560
	=====

</TABLE>

The accompanying note is an integral
part of this Historical Summary.

PACIFICA CLUB APARTMENTS
NOTE TO HISTORICAL SUMMARY OF REVENUES
AND DIRECT OPERATING EXPENSES

A. PROPERTY AND BASIS OF ACCOUNTING:

The accompanying Historical Summary of Revenues and Direct Operating
Expenses has been prepared in accordance with Rule 3-14 of Regulation S-X

of the Securities and Exchange Commission and relates to the operations of Pacifica Club Apartments located in Huntington Beach, California with 304 apartment homes.

In accordance with Rule 3-14, direct operating expenses are presented exclusive of depreciation, interest, management fees, and income taxes.

Rental income attributable to residential leases is recorded when due from tenants.

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REPORT OF INDEPENDENT ACCOUNTANTS

Board of Directors
Bay Apartment Communities, Inc.:

We have audited the accompanying Historical Summary of Revenues and Direct Operating Expenses (the Historical Summary) of Westwood Club Apartments, Los Angeles, California (the Property) for the 12 months ended May 31, 1997. The Historical Summary is the responsibility of the Property's owner. Our responsibility is to express an opinion on the Historical Summary based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Historical Summary is free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the Historical Summary. An audit also includes assessing the basis of accounting used and significant estimates made by management, as well as evaluating the overall presentation of the Historical Summary. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Historical Summary was prepared for the purpose of complying with rules and regulations of the Securities and Exchange Commission, as described in Note A, and is not intended to be a complete presentation of the Property's revenues and expenses and may not be comparable to results from proposed future operations of the Property.

In our opinion, the Historical Summary referred to above presents fairly, in all material respects, the revenues and direct operating expenses, described in Note A, of Westwood Club Apartments, Los Angeles, California, for the 12 months ended May 31, 1997, in conformity with generally accepted accounting principles.

COOPERS & LYBRAND L.L.P.

San Francisco, California
November 14, 1997

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WESTWOOD CLUB APARTMENTS

HISTORICAL SUMMARY OF REVENUES AND DIRECT OPERATING EXPENSES

<TABLE>
<CAPTION>

Twelve Months
Ended
May 31, 1997

<S>

<C>

Revenues:

Rental income

\$3,777,156

Other	219,410

	3,996,566

Direct operating expenses:	
On-site management	565,622
Real property tax	187,962
Utilities	276,190
Repairs and maintenance	989,537
Other	81,853

	2,101,164

Revenue in excess of direct operating expenses	\$1,895,402
	=====

</TABLE>

The accompanying note is an integral
part of this Historical Summary.

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WESTWOOD CLUB APARTMENTS

NOTE TO HISTORICAL SUMMARY OF REVENUES AND DIRECT OPERATING EXPENSES

A. PROPERTY AND BASIS OF ACCOUNTING:

The accompanying Historical Summary of Revenues and Direct Operating Expenses has been prepared in accordance with Rule 3-14 of Regulation S-X of the Securities and Exchange Commission and relates to the operations of Westwood Club Apartments located in Los Angeles, California with 363 apartment homes.

In accordance with Rule 3-14, direct operating expenses are presented exclusive of depreciation, interest, management fees, and income taxes.

Rental income attributable to residential leases is recorded when due from tenants.

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REPORT OF INDEPENDENT ACCOUNTANTS

Board of Directors
Bay Apartment Communities, Inc.:

We have audited the accompanying Historical Summary of Revenues and Direct Operating Expenses (the Historical Summary) of Waterhouse Place Apartments,

Beaverton, Oregon (the Property) for the year ended December 31, 1996. The Historical Summary is the responsibility of the Property's owner. Our responsibility is to express an opinion on the Historical Summary based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Historical Summary is free of material misstatement. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the Historical Summary. An audit also includes assessing the basis of accounting used and significant estimates made by management, as well as evaluating the overall presentation of the Historical Summary. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Historical Summary was prepared for the purpose of complying with rules and regulations of the Securities and Exchange Commission, as described in Note A, and is not intended to be a complete presentation of the Property's revenues and expenses and may not be comparable to results from proposed future operations of the Property.

In our opinion, the Historical Summary referred to above presents fairly, in all material respects, the revenues and direct operating expenses, described in Note A, of Waterhouse Place Apartments, Los Angeles, California, for the year ended December 31, 1997, in conformity with generally accepted accounting principles.

COOPERS & LYBRAND L.L.P.

San Francisco, California
December 11, 1997

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WATERHOUSE PLACE APARTMENTS
HISTORICAL SUMMARY OF REVENUES AND
DIRECT OPERATING EXPENSES

<TABLE>
<CAPTION>

	Year Ended December 31, 1996

<S>	<C>
Revenues:	
Rental income	\$2,030,418
Other	59,325

	2,089,743

Direct operating expenses:	
On-site management	215,105
Real property tax	183,704
Utilities	157,517
Repairs and maintenance	243,804
Other	14,549

	814,679

Revenue in excess of direct operating expenses	\$1,275,064
	=====

</TABLE>

The accompanying note is an integral
part of this Historical Summary.

WATERHOUSE PLACE APARTMENTS
NOTE TO HISTORICAL SUMMARY OF REVENUES
AND DIRECT OPERATING EXPENSES

A. PROPERTY AND BASIS OF ACCOUNTING:

The accompanying Historical Summary of Revenues and Direct Operating Expenses has been prepared in accordance with Rule 3-14 of Regulation S-X of the Securities and Exchange Commission and relates to the operations of Waterhouse Place Apartments located in Beaverton, Oregon with 279 apartment homes.

In accordance with Rule 3-14, direct operating expenses are presented exclusive of depreciation, interest, management fees, and income taxes.

Rental income attributable to residential leases is recorded when due from tenants.

BAY APARTMENT COMMUNITIES, INC.
PRO FORMA CONSOLIDATED BALANCE SHEET
DECEMBER 31, 1996
(In thousands, except share and per share data)
(Unaudited)

<TABLE>
<CAPTION>

	Historical	Acquisition	Pro Forma
	-----	-----	-----
<S>	<C>	<C>	<C>
Assets:			
Real estate assets:			
Land	\$152,277	\$ 32,304 A	\$184,581
Buildings and improvements	511,583	108,526 A	620,109
Furniture, fixtures & equipment	35,542	7,540 A	43,082
	-----	-----	-----
	699,402	148,370	847,772
Less: accumulated depreciation	(52,554)	0	(52,554)
	-----	-----	-----
Operating real estate assets	646,848	148,370	795,218
Construction in progress	50,945	0	50,945
	-----	-----	-----
Net real estate assets	697,793	148,370	846,163
Cash & cash equivalents	920	0	920
Restricted cash	960	0	960
Other assets, net	12,236	0	12,236
	-----	-----	-----
Total Assets	\$711,909	\$148,370	\$860,279
	=====	=====	=====
Liabilities and Shareholders' Equity:			
Liabilities:			
Notes payable	\$273,688	\$148,370 B	\$422,058
Accounts payable and accrued expenses	5,450	0	5,450
Dividends payable	8,939	0	8,939

Other liabilities	4,553	0	4,553
	-----	-----	-----
Total Liabilities	292,630	148,370	441,000
Minority interest	7,002	0	7,002
Shareholders' Equity:			
Preferred stock	27	0	27
Common stock	190	0	190
Paid in capital	435,723	0	435,723
Dividends in excess of accumulated earnings	(23,663)	0	(23,663)
	-----	-----	-----
Total Shareholders Equity	412,277	0	412,277
	-----	-----	-----
Total Liabilities and Shareholders' Equity	\$711,909	\$148,370	\$860,279
	=====	=====	=====

</TABLE>

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BAY APARTMENT COMMUNITIES, INC.
PRO FORMA CONSOLIDATED STATEMENT OF OPERATIONS
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 1996
(In thousands, except share and per share data)
(Unaudited)

<TABLE>
<CAPTION>

	Historical	Acquisition Communities	Pro Forma
	-----	-----	-----
<S>	<C>	<C>	<C>
Revenue:			
Rental	\$ 80,377	\$16,576 C	\$ 96,953
Other	2,216	972 C	3,188
	-----	-----	-----
Total revenue	82,593	17,548	100,141
	-----	-----	-----
Expenses:			
Property operating	18,924	6,179 D	25,103
Property taxes	6,353	1,197 D	7,550
General and administrative	3,895	401 D	4,296
Interest and financing	14,276	10,193 E	24,469
Depreciation and amortization	18,689	4,695 F	23,384
	-----	-----	-----
Total expenses	62,137	22,665	84,802
	-----	-----	-----
Income before minority interest and extraordinary item	20,456	(5,117)	15,339
Minority interest	(319)	-	(319)
	-----	-----	-----
Income before extraordinary item	20,137	(5,117)	15,020
Extraordinary item	(511)	-	(511)
	-----	-----	-----
Net income	19,626	(5,117)	14,509
Preferred dividend requirement	(4,264)	0	(4,264)
	-----	-----	-----
Earnings available to common shares	\$ 15,362	(\$5,117)	\$ 10,245
	=====	=====	=====
Weighted average shares outstanding	15,126,242		15,126,242
	=====		=====
Per share	\$ 1.02		\$ 0.68
	=====		=====

</TABLE>

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1. Basis of Presentation:

The pro forma financial statements of Bay Apartment Communities, Inc. (the "Company"), which are unaudited, have been prepared based on the historical financial statements of the Company. The pro forma consolidated balance sheet has been prepared as if the probable acquisition of six apartment communities during the period of December 1997 through January 1998 (the "Acquisition Communities"), had occurred on December 31, 1996. The pro forma consolidated statement of operations for the twelve months ended December 31, 1996, has been prepared as if the above mentioned events had occurred on January 1, 1996. In management's opinion, all adjustments necessary to reflect the effects of these transactions have been made. The pro forma financial statements should be read in conjunction with the historical financial statements of the Company.

2. PRO FORMA ADJUSTMENTS:

- A - Additional real estate assets are attributable to the Acquisition Communities which consist of the following acquisitions (000's):

<TABLE>	
<S>	<C>
Waterhouse Place, Beaverton, OR	\$ 15,620
Arbor Park, Upland, CA	12,445
Amberway, Anaheim, CA	17,545
Pacifica Club, Huntington Beach, CA	26,820
Mission Bay Club, San Diego, CA	43,820
Westwood Club, Los Angeles, CA	32,120

	\$148,370

</TABLE>

- B - Increase in notes payable is attributable to cash used to acquire the Acquisition Communities which was drawn from the Credit Facility.
- C - Additional rental and other revenue is attributable to the Acquisition Communities.
- D - Additional property operating expense, property tax expense, and general and administrative expense are attributable to the Acquisition Communities.
- E - Additional interest and financing expense is attributable to the interest incurred on funds obtained from the Credit Facility.
- F - Depreciation expense attributable to the Acquisition Communities has been computed using the straight-line method over 30 years for buildings and 7 years for furniture, fixtures and equipment.

156,600 Shares

BAY APARTMENT COMMUNITIES, INC.

Common Stock

UNDERWRITING AGREEMENT

December 8, 1997

PAINWEBBER INCORPORATED
1285 Avenue of the Americas
New York, New York 10019

Ladies and Gentlemen:

Bay Apartment Communities, Inc., a Maryland corporation (the "Company") confirms its agreement with PaineWebber (hereinafter the "Underwriter") as follows:

1. DESCRIPTION OF SECURITIES.

The Company proposes to issue and sell to the Underwriter an aggregate of 156,600 shares (the "Shares") of common stock, par value \$0.01 per share of the Company ("Common Stock").

2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company represents and warrants to, and agrees with, the Underwriter that:

(a) The Company meets the requirements for use of Form S-3 and a registration statement on Form S-3 (File No. 333-39037) with respect to the Shares, including a prospectus (the "Base Prospectus"), has been carefully prepared by the Company in conformity with the requirements of the Securities Act of 1933, as amended (the "Act"), and the rules and regulations (the "Rules and Regulations") of the Securities and Exchange Commission (the "Commission") thereunder and filed with the Commission and has become effective. If such registration statement has been amended prior to the date of this Agreement, any such amendment was so prepared and filed, and any such amendment filed after the effective date of such registration statement has become effective. No stop order suspending the effectiveness of the registration statement has been issued, and no proceeding for that purpose has been instituted or, to the Company's knowledge, threatened by the Commission. If such registration statement has not become effective, a further amendment to such registration statement, including a form of final prospectus, necessary to permit such registration statement to become effective will be filed promptly by the Company with the Commission. If such registration statement has become effective, a prospectus supplement and a final prospectus containing information permitted to be omitted at the time of effectiveness by

Rule 430A of the Rules and Regulations has been or will be so prepared and filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations on or before the second business day after the date hereof (or such earlier time as may be required by the Rules and Regulations); and the Rules and Regulations do not require the Company to, and, without your consent, the Company will not, file a post-effective amendment after the time of execution of this Agreement and prior to the filing of such final form of prospectus. Copies of such registration statement and any such amendments have been delivered to the Underwriter and your counsel. The term "Registration Statement" means such registration statement as amended at the time it becomes or became effective (the "Effective Date"), including financial statements and all exhibits and any information deemed by virtue of Rule 430A of the Rules and Regulations to be included in such Registration Statement at the Effective Date and any prospectus supplement filed thereafter with the Commission and shall include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 which were filed under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The term "Prospectus" means, collectively, the Base Prospectus together with any prospectus supplement, in the respective forms they are filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations. Any reference herein to the terms "amend," "amendment" or "supplement" with respect to the Registration Statement, the Base Prospectus, or the Prospectus shall be deemed to refer to and include the filing of any document under the Act or the Exchange Act after the Effective Date, or the date of the Prospectus, as the case may be, that is incorporated therein by reference.

(b) Each part of the Registration Statement, when such part became or becomes effective, and the Prospectus and any amendment or supplement thereto,

on the date of filing thereof with the Commission and at the Closing Date (as hereinafter defined) conformed or will conform in all material respects with the requirements of the Act and the Rules and Regulations; each part of the Registration Statement, when such part became or becomes effective, did not or will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; the Prospectus and any amendment or supplement thereto, on the date of filing thereof with the Commission and at the Closing Date, did not or will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; the foregoing shall not apply to the statements in or omissions from any such document in reliance upon, and in conformity with, written information furnished to the Company by you or by the Underwriter specifically for use in the preparation thereof. The Company acknowledges that the only information furnished in writing to the Company by the Underwriter specifically for inclusion in the Registration Statement is the information set forth in EXHIBIT I hereto. The Company has not distributed any offering material in connection with the offering or sale of the Shares other than the Registration Statement, the Prospectus or any other materials, if any, permitted by the Act.

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(c) The financial statements and schedules included in the Registration Statement and the Prospectus set forth fairly the financial condition of the respective entity or entities presented as of the dates indicated and the results of operations and changes in financial position for the periods therein specified in conformity with generally accepted accounting principles consistently applied throughout the periods involved (except as otherwise stated therein). The pro forma financial statements of the Company included in the Registration Statement and the Prospectus comply in all material respects with the applicable requirements of Rule 11-02 of Regulation S-X of the Commission and the pro forma adjustments have been properly applied to the historical amounts in the compilation of such statements. No other financial statements (or schedules) of the Company or any predecessor of the Company are required by the Act or the Rules and Regulations to be included in the Registration Statement or the Prospectus. Coopers & Lybrand L.L.P. ("Coopers & Lybrand"), who have reported on the financial statements and schedules which are audited, are independent accountants with respect to the Company as required by the Act and the Rules and Regulations.

(d) The Company has been duly organized and is validly existing as a corporation, is in good standing under the laws of the State of Maryland, has the power and authority to conduct its business as described in the Registration Statement and Prospectus, and is duly qualified to do business in each jurisdiction in which it owns or leases real property or in which the conduct of its business requires such qualification, except where the failure to be so qualified, considering all such cases in the aggregate, does not involve and will not involve a material risk to the business, properties, financial position or results of operations of the Company and its subsidiaries (as hereinafter defined) taken as a whole.

(e) The only subsidiaries (as defined in the Rules and Regulations) of the Company are the subsidiaries listed on EXHIBIT II attached hereto (the "subsidiaries"). Each of the Company's subsidiaries existing as of the date hereof is a corporation or partnership, as the case may be, duly organized, validly existing and in good standing under the laws of its respective jurisdiction of incorporation or organization. Each of the Company's subsidiaries existing as of the date hereof has the power and authority to conduct its business as described in the Registration Statement and Prospectus and is, or will be upon the Closing Date, duly qualified to do business in each jurisdiction in which it owns or leases, or will own or lease, real property or in which the conduct of its business requires such qualification except where the failure to be so qualified, considering all such cases in the aggregate, does not involve and will not involve a material risk to the business, properties, financial position or results of operations of the Company or any subsidiary taken as a whole. Except for the interests in the subsidiaries and as disclosed in the Registration Statement, the Company does not own, directly or indirectly, any shares of stock or any other equity or long-term debt securities of any corporation or have any equity interest in any firm, partnership, joint venture, trust, association or other entity. Complete and correct copies of the articles or certificate of incorporation, partnership agreements, and of the by-laws of each of the Company's subsidiaries and all amendments thereto have been delivered to the Underwriter, and no

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changes therein will be made subsequent to the date hereof and prior to the Closing Date, except as heretofore disclosed in writing to the Underwriter. Except as otherwise described in the Registration Statement or the Prospectus,

or as described in EXHIBIT II, all of the issued and outstanding capital stock of each corporate subsidiary of the Company has been duly authorized and will be, as of the Closing Date, validly issued, fully paid and non-assessable, and owned by the Company, in each case free and clear of any security interest, mortgage, pledge, lien, charge, encumbrance, claim, restriction or equity interest (each of the foregoing, a "Lien").

(f) The outstanding securities of the Company, including the Common Stock, the outstanding shares of Series A Preferred Stock, Series B Preferred Stock and Series C Preferred Stock, and the Shares have been duly authorized and are, or when issued and delivered to the Underwriter against full payment therefor as provided by this Agreement will be, validly issued, fully paid and nonassessable by the Company and conform, or when so issued will conform, to the description thereof in the Prospectus. The shareholders of the Company have no preemptive or similar rights with respect to the Shares. Except as set forth in the Registration Statement or the Prospectus, the Company does not have outstanding any option to purchase, or any rights or warrants to subscribe for, or any securities or obligations convertible into, or any contracts or commitments to issue or sell, any securities, any shares of capital stock of any subsidiary or any such warrants, convertible securities or obligations, except for stock options and shares of restricted stock granted pursuant to the Company's 1994 Stock Incentive Plan, as amended and restated, and stock issuable under the 1996 Non-Qualified Employee Stock Purchase Plan.

(g) Except as contemplated in the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, the Company and its subsidiaries have not incurred any liabilities or obligations, direct or contingent, or entered into any transactions, not in the ordinary course of business, that are material to the Company or its subsidiaries, and there has not been any material change in the capital stock, partnership interests, short-term debt or long-term debt of the Company or any of its subsidiaries, or any material adverse change, or any development involving a prospective material adverse change, in the condition (financial or other), business prospects, net worth or results of operations of the Company and its subsidiaries taken as a whole.

(h) Except as set forth in the Prospectus, there is not pending or, to the knowledge of the Company, threatened any action, suit or proceeding against or affecting the Company or any of its subsidiaries or any of their respective directors, partners or officers in their capacity as such, or any of the Communities (as defined in the Prospectus) before or by any Federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding might result in any material adverse change in the condition (financial or other), business prospects, net worth or results of operations of

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the Company and its subsidiaries taken as a whole, or materially and adversely affect the properties or assets of the Company and its subsidiaries taken as a whole.

(i) There are no contracts or documents of a character required to be described in the Prospectus or filed as exhibits to the Registration Statement by the Act or the Rules and Regulations that have not been so described or filed (the "Contracts"). All Contracts executed and delivered on or before the date hereof to which the Company or any subsidiary of the Company is a party have been duly authorized, executed and delivered by the Company or such subsidiary, constitute valid and binding agreements of the Company or such subsidiary and are enforceable against the Company or such subsidiary in accordance with the terms thereof, except as limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally or, in the case of each such Contract which is to be executed and delivered on the Closing Date, will on the Closing Date, be duly authorized, executed and delivered by the Company or such subsidiary, constitute valid and binding agreements of the Company or such subsidiary and be enforceable against the Company or such subsidiary in accordance with the terms thereof, except as limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally.

(j) The Company has the corporate power and authority to enter into this Agreement. This Agreement has been duly authorized, executed and delivered by the Company and constitutes a valid and binding agreement of the Company and is enforceable against the Company in accordance with the terms hereof, except as limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally. Except as disclosed in the Prospectus, the execution, delivery and the performance of this Agreement and the consummation of the transactions herein contemplated will not result in the creation or imposition of any lien, charge or encumbrance upon the Communities (as defined in the Prospectus) or any of the other assets of the Company or any of its subsidiaries pursuant to the terms or provisions of, or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or give any other party a right to terminate any of its obligations under, or result in the acceleration of any obligation under, the

articles of incorporation of the Company or by-laws of the Company, the articles or certificate of incorporation or by-laws or partnership agreements of any of the Company's subsidiaries, or any Contract, or violate or conflict with any judgment, ruling, decree, order, statute, rule or regulation of any court or other governmental agency or body applicable to the Communities or business or properties of the Company or any of its subsidiaries. No consent, approval, authorization or order of, or filing with, any court or governmental agency or body is required for the consummation of the transactions contemplated by this Agreement or in connection with the issuance or sale of the Shares by the Company, except such as may be required under the Act, the Exchange Act or state securities laws, or the by-laws and rules of the National Association of Securities Dealers, Inc. (the "NASD") in connection with the purchase and distribution by the Underwriter of the Shares to be sold by the Company. The Company has the power and authority to authorize, issue, offer and sell the Shares, as contemplated by this Agreement, free of any preemptive rights.

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(k) Each of the Company and its subsidiaries has complied in all material respects with all laws, regulations and orders applicable to it or their respective businesses and properties; neither the Company nor any of its subsidiaries is, and upon consummation of the offering of the Shares, none of them will be in default under any Contract, the violation of which would individually or in the aggregate have a material adverse effect on the Company and its subsidiaries taken as a whole, and no other party under any such Contract to which the Company or any of its subsidiaries is a party is, to the knowledge of the Company, in default in any material respect thereunder; the Company is not in violation of its articles of incorporation or by-laws; except as disclosed in the Prospectus, the Company and each of its subsidiaries have or, upon the Closing Date, will have all governmental licenses (including, without limitation, a California real estate brokerage license and a California general contractor's license, if applicable), permits, consents, orders, approvals and other authorizations required to carry on its business as contemplated in the Prospectus, and none of them has received any notice of proceedings relating to the revocation or modification of any such governmental license, permit, consent, order, approval or other authorization which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would materially and adversely affect the condition, financial or otherwise, or the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise.

(l) The Company, or its subsidiaries, as applicable, has good and marketable title to the Communities, and the Communities are not subject to any liens or encumbrances except for monetary liens as set forth in the Prospectus, non-delinquent property taxes, utility easements and other immaterial non-monetary liens or encumbrances of record. All liens, charges, encumbrances, claims or restrictions on or affecting the Communities which are required to be disclosed in the Prospectus are disclosed therein.

(m) The mortgages and deeds of trust encumbering the Communities are not convertible nor will the Company or any of its subsidiaries hold a participating interest therein and such mortgages and deeds of trust are not cross-defaulted or cross-collateralized to any property not to be owned directly or indirectly by the Company. To the knowledge of the Company (i) the present and intended use and occupancy of each of the Communities complies with all applicable codes and zoning laws and regulations, if any, except for such failures to comply which would not individually or in the aggregate have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries taken as a whole; and (ii) there is no pending or, to the Company's knowledge, threatened condemnation, zoning change, environmental or other proceeding or action that will in any material respect affect the size of, use of, improvements on, construction on, or access to the Communities, except for such proceedings or actions that would not individually or in the aggregate have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries taken as a whole.

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(n) The Company and its subsidiaries maintain property and casualty insurance (other than earthquake insurance) in favor of the Company and its subsidiaries with respect to each of the Communities, in an amount and on such terms as is reasonable for businesses of the type proposed to be conducted by the Company and its subsidiaries. The Company maintains earthquake insurance on the Communities as set forth in the Prospectus. The Company or its subsidiaries has not received from any insurance company notice of any material defects or deficiencies affecting the insurability of any of the Communities (other than

with respect to seismic activities).

(o) As of the Closing Date the Company, and each of its subsidiaries (i) will be in compliance in all material respects with any and all applicable foreign, Federal, state and local laws and regulations relating to the protection of human health and safety, the Hazardous Materials (as defined below), or hazardous or toxic wastes, pollutants or contaminants (the "Environmental Laws"); (ii) will have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) will be in compliance with all terms and conditions of any such permit, license or approval, except where such noncompliance with Environmental Laws, failure to receive required permits, licenses or other approvals or failure to comply with the terms and conditions of such permits, licenses or approvals are otherwise disclosed in the Prospectus or would not, individually or in the aggregate, have a material adverse effect on the Company and its subsidiaries taken as a whole.

(p) (i) None of the Company or any partnership that owns a Community (each a "Partnership") has at any time, and, to the best knowledge of the Company after due inquiry and investigation, no other party has, at any time, handled, buried, stored, retained, refined, transported, processed, manufactured, generated, produced, spilled, allowed to seep, leak, escape or leach, or be pumped, poured, emitted, emptied, discharged, released, injected, dumped, transferred or otherwise disposed of or dealt with, Hazardous Materials (as hereinafter defined) on, to, above under, in, into or from the Communities, except as disclosed in the environmental reports previously delivered to the Underwriter or referred to in the Prospectus, or such as would not individually or in the aggregate have a material adverse effect on the Company and its subsidiaries, taken as a whole. Neither the Company nor its subsidiaries intends to use the Communities or any subsequently acquired properties described in the Prospectus for the purpose of handling, burying, storing, retaining, refining, transporting, processing, manufacturing, generating, producing, spilling, seeping, leaking, escaping, leaching, pumping, pouring, emitting, emptying, discharging, releasing, injecting, dumping, transferring or otherwise disposing of or dealing with Hazardous Materials, except for the use, storage and transportation of small quantities of substances that are regularly used as office supplies, household cleaning supplies, gardening supplies, or pool maintenance supplies in compliance with applicable Environmental Laws and in accordance with prudent business practices and good hazardous materials storage and handling practices.

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(ii) None of the Company or the Partnerships, to the best knowledge of the Company after due inquiry and investigation, knows of any seepage, leak, escape, leach, discharge, injection, release, emission, spill, pumping, pouring, emptying or dumping of Hazardous Materials into waters on, under or adjacent to the Communities or onto lands from which such hazardous or toxic waste of substances might seep, flow or drain into such waters, except as disclosed in the environmental reports previously delivered to the Underwriter or referred to in the Prospectus or such as would not individually or in the aggregate have a material adverse effect on the Company and its subsidiaries, taken as a whole.

(iii) None of the Company or the Partnerships to the best knowledge of the Company after due inquiry and investigation, has received notice of, or has knowledge of any occurrence or circumstance which, with notice or passage of time or both, would give rise to, any claim under or pursuant to any Environmental Law pertaining to Hazardous Materials, hazardous or toxic waste or substances on or originating from the Communities arising out of the conduct of any such party, including, without limitation, pursuant to any Environmental Law, except as disclosed in the environmental reports previously delivered to the Underwriter or referred to in the Prospectus or such as would not individually or in the aggregate have a material adverse effect on the Company and its subsidiaries, taken as a whole.

As used herein, "Hazardous Material" shall include, without limitation, any flammable materials or explosives, petroleum or petroleum-based products, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any material as defined by any Federal, state or local environmental law, ordinance, rule, or regulation including, without limitation, Environmental Laws, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9601, ET SEQ.) ("CERCLA"), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, ET SEQ.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 9601, ET SEQ.), and in the regulations adopted and publications promulgated pursuant to each of the foregoing or by any Federal, state or local governmental authority having or claiming jurisdiction over the Communities as described in the Prospectus.

(q) In the ordinary course of its business, each of the Company and the Partnerships conducts a periodic review of the effect of Environmental Laws on its business, operations and properties in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for investigation, clean-up, closure of properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties). On the basis of such review and on the basis of the reviews conducted by the Company in connection with the Communities, the Company has reasonably concluded that such associated costs and

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liabilities would not individually or in the aggregate, have a material adverse effect on the Company and its subsidiaries taken as a whole.

(r) The Company is not an "investment company" or an entity "controlled" by an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended (the "1940 Act").

(s) Neither the assets of the Company nor its subsidiaries constitute, nor will such assets, as of the Closing Date, constitute, "plan assets" under the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

(t) The Company has elected to be taxed as a REIT under the Code and will use its best efforts to continue to be organized and will continue to operate in a manner so as to qualify as a "real estate investment trust" ("REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"), unless the Board of Directors determines that it is no longer in the best interest of the Company to continue to be so qualified.

(u) Except as stated in the Prospectus, neither the Company nor any of its directors, officers or controlling persons has taken, nor will it take, directly or indirectly, any action designed to or that might reasonably be expected to cause or result in stabilization or manipulation of the price of the Shares to facilitate the sale or resale of the Shares.

(v) The Company has not distributed and, prior to the later to occur of (i) the Closing Date and (ii) completion of the distribution of the Shares, will not distribute any offering material in connection with the offering and sale of the Shares other than the Registration Statement, the Prospectus or other materials, if any, permitted by the Act.

(w) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to financial and corporate books and records is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(x) The Shares have been duly authorized for listing by the New York Stock Exchange and the Pacific Exchange, subject only to official notice of issuance.

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(y) Neither the Company nor any of its subsidiaries is involved in any material labor dispute nor, to the best knowledge of the Company after due inquiry and investigation, is any such dispute threatened.

(z) No holder of securities of the Company has rights to the registration of any securities of the Company because of the filing of the Registration Statement, except as set forth in that certain Registration Rights Agreement dated March 16, 1994 among the Company and certain stockholders.

3. PURCHASE, SALE AND DELIVERY OF SHARES.

(a) On the basis of the representations, warranties and agreements of the Company herein contained and subject to all the terms and conditions of this Agreement, the Company agrees to sell to the Underwriter, and the Underwriter agrees to purchase from the Company at the purchase price per share for the Shares to be agreed upon by the Underwriter and the Company and set forth in the Price Determination Agreement, as hereinafter defined, the number of Shares set forth opposite the name of such Underwriter in SCHEDULE A. If the Company elects to rely on Rule 430A (as hereinafter defined), SCHEDULE A may be attached to the

Price Determination Agreement.

(b) Delivery of the Shares shall be made to accounts of the Underwriter against payment of the purchase price by wire transfer of immediately available funds to the order of the Company at the office of PaineWebber Incorporated, 1285 Avenue of the Americas, New York, New York 10019. Such payments shall be made at 10:00 a.m., New York City time, on the third business day (or, if the Shares are priced as contemplated by Rule 15c6-1(c) of the Exchange Act after 4:30 p.m., New York City time, the fourth business day) following the date of this Agreement or, if the Company has elected to rely on Rule 430A, the third or fourth business day, as applicable, after the date on which the first bona fide offering of the Shares to the public is made by the Underwriter or at such time on such other date, not later than seven business days after the date of this Agreement, as may be agreed upon by the Company and the Underwriter (such date is herein referred to as the "Closing Date").

(c) If requested by the Underwriter no later than the date of this Agreement, certificates evidencing the Shares shall be in definitive form and shall be registered in such names and in such denominations as the Underwriter shall request at least two business days prior to the Closing Date, by written notice to the Company. For the purpose of expediting the checking and packaging of certificates for the Shares, the Company agrees to make such certificates available for inspection at least 24 hours prior to the Closing Date.

(d) The initial public offering price per share for the Shares and the purchase price per share for the Shares to be paid by the Underwriter shall be agreed upon by the Company and the Underwriter, and such agreement shall be set forth in a

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separate written instrument substantially in the form of EXHIBIT III hereto (the "Price Determination Agreement"). The Price Determination Agreement may take the form of an exchange of any standard form of written telecommunication among the Company and the Underwriter and shall specify such applicable information as is indicated in EXHIBIT III hereto. The offering of the Shares will be governed by this Agreement, as supplemented by the Price Determination Agreement. From and after the date of the execution and delivery of the Price Determination Agreement, this Agreement shall be deemed to incorporate, and, unless the context otherwise indicates, all references contained herein to "this Agreement" and to the phrase "herein" shall be deemed to include, the Price Determination Agreement.

4. COVENANTS. The Company covenants and agrees with each Underwriter that:

(a) The Company will cause the Prospectus to be filed as required by Section 2(a) hereof (but only if you have not reasonably objected thereto by notice to the Company after having been furnished a copy a reasonable time prior to filing) and will notify you promptly of such filing; it will notify you promptly of the time when any subsequent amendment to the Registration Statement has become effective or any supplement to the Prospectus has been filed and of any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or for additional information; it will prepare and file with the Commission, promptly upon your request, any amendments or supplements to the Registration Statement or Prospectus that, in your opinion, may be necessary or advisable in connection with the distribution of the Shares by the Underwriter; and it will file no amendment or supplement to the Registration Statement or Prospectus to which you shall reasonably object by notice to the Company after having been furnished a copy at a reasonable time prior to the filing.

(b) The Company will advise you, promptly after it shall receive notice or obtain knowledge thereof, of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement, of the suspension of the qualification of the Shares for offering or sale in any jurisdiction, or of the initiation or threatening of any proceeding for any purpose; and it will promptly use its best efforts to prevent the issuance of any stop order or to obtain its withdrawal if such a stop order should be issued.

(c) Within the time during which a prospectus relating to the Shares is required to be delivered under the Act, the Company will comply with all requirements imposed upon it by the Act and by the Rules and Regulations, as from time to time in force, so far as necessary to permit the continuance of sales of or dealings in the Shares as contemplated by the provisions hereof and the Prospectus. If during such period any event occurs as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances then existing, not misleading, or if during such period it is necessary to amend or supplement the

Registration Statement or Prospectus to comply with the Act, the Company will promptly notify you and will amend or supplement the Registration Statement or Prospectus (at the expense of the Company) so as to correct such statement or omission or effect such compliance.

(d) As soon after the execution and delivery of this Agreement as possible and thereafter from time to time for such period as in the opinion of counsel for the Underwriter a prospectus is required by the Act to be delivered in connection with sales by any Underwriter or dealer, the Company will expeditiously deliver to each Underwriter and counsel for the Underwriter and each dealer, without charge, as many copies of the Prospectus (and of any amendment or supplement thereto) as you or they may reasonably request. The Company consents to the use of the Prospectus (and of any amendment or supplement thereto) in accordance with the provisions of the Act, both in connection with the offering and sale of the Shares and for such period of time thereafter as the Prospectus is required by the Act to be delivered in connection with sales by any Underwriter or dealer. If during such period of time any event shall occur that in the judgment of the Company or in the opinion of counsel for the Underwriter is required to be set forth in the Prospectus (as then amended or supplemented) or should be set forth therein in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or if it is necessary to supplement or amend the Prospectus to comply with the Act or any other law, the Company will forthwith prepare and, subject to the provisions of Section 4(a) hereof, file with the Commission an appropriate supplement or amendment thereto, and will expeditiously furnish to the Underwriter and dealers a reasonable number of copies thereof. In the event that the Company and you agree that the Prospectus should be amended or supplemented, the Company, if requested by you, will promptly issue a press release announcing or disclosing the matters to be covered by the proposed amendment or supplement.

(e) The Company will make generally available to its security holders as soon as practicable, but not later than fifty (50) days after the close of the period covered thereby, an earnings statement (in form complying with the provisions of Section 11(a) of the Act and Rule 158 of the Rules and Regulations) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the "effective date" (as defined in said Rule 158) of the Registration Statement and will advise you in writing when such statement has been so made available.

(f) The Company agrees to pay the following costs and expenses and all other costs and expenses incident to the performance by the Company of the Company's obligations hereunder including, without limitation, its own travel (including air fare) and lodging expenses related to the preparation of the Prospectus and any sales efforts: (i) the preparation, printing or reproduction, and filing with the Commission of the Registration Statement (including financial statements and exhibits thereto), the Prospectus, and each amendment or supplement to either of them; (ii) the printing or (reproduction) and delivery (including postage, air freight charges and charges for

counting and packaging) of such copies of the Registration Statement, the Prospectus, and all amendments or supplements to either of them as may be reasonably requested for use in connection with the offering and sale of the Shares; (iii) the preparation, printing, authentication, issuance and delivery of certificates for the Shares, including any stamp taxes in connection with the original issuance and sale of the Shares; (iv) the printing (or reproduction) and delivery of this Agreement; (v) the listing of the Shares on the New York Stock Exchange and the Pacific Exchange; (vi) the filing fees and the fees and expenses of counsel for the Underwriter in connection with any filings required to be made with the NASD; and (vii) the fees and expenses of the Company's accountants and the fees and expenses of counsel (including local and special counsel) for the Company.

(g) The Company will apply the net proceeds from the offering and sale of the Shares in the manner set forth in the Prospectus under "Use of Proceeds" and shall file such reports with the Commission with respect to the sale of the Shares and the application of the proceeds therefrom as may be required in accordance with Rule 463 under the Act.

(h) Unless the Board of Directors of the Company determines in its reasonable business judgment that continued qualification as a "real estate investment trust" under the Code is not in the Company's best interest the

Company will use its best efforts to, and will continue to meet the requirements to qualify as a "real estate investment trust."

(i) The Company will not at any time, directly or indirectly, take any action designed, or which might reasonably be expected to cause or result in, or which will constitute, stabilization of the price of the Shares to facilitate the sale or resale of any of the Shares.

(j) The Company will comply with all provisions of any undertakings contained in Item 17 of the Registration Statement.

(k) The Company will comply with all provisions of any undertakings contained in the Registration Statement.

(l) In the event that any portion of the Shares is issued without certificates pursuant to section 2-210 of the Maryland General Corporation Law (the "MGCL"), at the time of issuance of such Shares the Company shall fully comply with sections 2-210 and 2-211 of the MGCL.

5. CONDITIONS OF UNDERWRITER'S OBLIGATIONS. The obligations of the Underwriter to purchase and pay for the Shares as provided herein shall be subject to the accuracy, as of the date hereof and the Closing Date (as if made at the Closing Date), of the representations and warranties of the Company herein, to the performance by the Company of its obligations hereunder and to the following additional conditions:

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(a) Notification that the Registration Statement has become effective shall be received by the Underwriter not later than 5:00 pm., New York City time, on the date of this Agreement or at such later date and time as shall be consented to in writing by the Underwriter and all filings required by Rule 424 and Rule 430A of the Rules and Regulations shall have been made; no stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceeding for that purpose shall have been instituted or, to the knowledge of the Company or the Underwriter, threatened by the Commission; and any request of the Commission for additional information (to be included in the Registration Statement or the Prospectus or otherwise) shall have been complied with to your satisfaction.

(b) The Underwriter shall not have advised the Company that the Registration Statement or Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in your opinion is material, or omits to state a fact that in your opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(c) Except as contemplated in the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus, (i) there shall not have been any change in the capital stock, partnership interests, short-term debt or long-term debt of the Company or its subsidiaries, (ii) there shall not have been any adverse change, or any development involving a prospective adverse change, in the condition (financial or other), business, prospects, net worth or results of operations of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, and (iii) neither the Company nor any of its subsidiaries shall have sustained any material loss or interference with its business or properties from fire, explosion, flood or other casualty, whether or not covered by insurance, or from any labor dispute or any court or legislative or other governmental action, order or decree, which is not set forth in the Registration Statement and the Prospectus, if in the judgment of the Underwriter any of the foregoing makes it impractical or inadvisable to offer or deliver the Shares on the terms and in the manner contemplated in the Prospectus.

(d) You shall have received the opinion of Goodwin, Procter & Hoar LLP, counsel for the Company dated the Closing Date, to the effect that:

(i) The Registration Statement has been declared effective under the Act; the Prospectus has been filed with the Commission pursuant to Rule 424; and to the best knowledge of such counsel (which may be based solely on an oral representation of a member of the staff of the Commission) no stop order suspending the effectiveness of the Registration Statement has been issued under the Act and no proceeding for that purpose has been instituted or threatened by the Commission;

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(ii) Each part of the Registration Statement, when such part became effective, and the Prospectus and any amendment or supplement thereto, on the date of filing thereof with the Commission and at the Closing Date, complied as to form in all material respects with the requirements of the Act and the Rules and Regulations (other than (A) the financial statements and supporting schedules and other financial and statistical information and data included therein or omitted therefrom, and (B) any documents incorporated therein by reference, as to which such counsel need express no opinion), it being understood that in passing upon compliance as to the form of the Registration Statement, such counsel may assume that the statements made therein are correct and complete;

(iii) The descriptions in the Registration Statement (other than the documents incorporated therein by reference) and Prospectus of statutes are accurate in all material respects and fairly present the information required to be shown; and such counsel do not know of any statutes or legal or governmental proceedings required to be described in the Prospectus that are not described as required, or of any contracts or documents of a character required to be described in the Registration Statement or Prospectus or to be filed as exhibits to the Registration Statement that are not described and filed as required;

(iv) The form of organization of the Company and its operations are such as to enable the Company to qualify as a "real estate investment trust" under the applicable provisions of the Code.

(v) The Company is not (after giving effect to the sale of the Shares) required to be registered under the 1940 Act;

(vi) The Company is in good standing under the laws of the State of California as a foreign corporation, has full power and authority to conduct its business as described in the Registration Statement and Prospectus;

(vii) Each of the partnerships that owns a Community (the "Partnerships") is a limited partnership duly organized, validly existing and in good standing under the laws of its state of incorporation and has the power under its partnership agreement and the applicable Limited Partnership Act necessary to conduct its business as described in the Registration Statement and Prospectus; each of the corporate subsidiaries of the Company is duly organized, validly existing and in good standing under the laws of its state of incorporation and has the corporate power and authority to conduct its business as described in the Registration Statement and Prospectus;

(viii) The General Partners of each of the Partnerships are duly qualified to do business in the State of California, except where the failure to be so qualified, considering all such cases in the aggregate, does not involve and will

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not involve a material risk to the business, properties, financial position or results of operations of such subsidiary;

(ix) All of the outstanding shares of Common Stock and the Preferred Stock of the Company identified in the Prospectus (including the Shares) have been duly authorized and are, or when issued as contemplated hereby will be, validly issued, fully paid and nonassessable and conform, or when so issued will conform, to the description thereof in the Prospectus; and the shareholders of the Company have no preemptive or similar rights with respect to the Shares pursuant to the Company's Charter or applicable statute or pursuant to any contract identified on an exhibit to such opinion (which exhibit lists all contracts identified by the Company in an officer's certificate as material under the standard set forth in Item 601(b)(10) of Regulation S-K);

(x) The Company has full corporate power and authority to enter into this Agreement; this Agreement has been duly authorized, executed and delivered by the Company; to the knowledge of such counsel, the issuance and sale of the Shares to the Underwriter on the terms contemplated herein will not result in the creation or imposition of any lien, charge or encumbrance upon any of the assets of the Company, any of its subsidiaries or the Partnerships, pursuant to the terms or provisions of, or result in a breach or violation of any of the terms or provisions of, or constitute a default or result in the acceleration of any obligation under, (i) the articles of incorporation or by-laws of the Company, (ii) the articles or certificate of incorporation or by-laws of any of the Company's subsidiaries, or the partnership agreements or other organizational documents of the Partnerships, (iii) any contract identified on the schedule to such opinion referenced above to which the Company, any

of its subsidiaries or the Partnerships is a party or by or pursuant to which any of them or their respective properties is bound, affected or financed or (iv) any statute, judgment, ruling, decree, order, rule or regulation of any court or other governmental agency or body applicable to the business or properties of the Company, any of its subsidiaries or the Partnerships (except that such counsel need express no opinion as to the securities or Blue Sky laws of any jurisdiction other than the United States), where such violation or default, individually or in the aggregate, might have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company or any of its subsidiaries taken as a whole;

(xi) To the knowledge of such counsel, no consent, approval, authorization or order of, or filing with, any court or governmental agency or body is required in connection with the issuance or sale of the Shares by the Company, except (i) such as have been obtained under the Act or the Exchange Act, or (ii) such as may be required under state securities laws or the by-laws of the NASD in connection with the purchase and distribution of the Shares by the Underwriter; and

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(xii) To the knowledge of such counsel, none of the Company, any of its subsidiaries or the Partnerships is in violation of its articles or certificate of incorporation, by-laws, partnership agreements, or other organizational documents, as applicable, or in default (nor has an event occurred which with notice or lapse of time or both would constitute a default or acceleration) in the performance of any obligation, agreement or condition contained in any Contract known to such counsel to which the Company, any of its subsidiaries or the Partnerships is a party will be a party, or by or pursuant to which any of them or their respective properties is bound, affected or financed will be bound, affected or financed, and, to the knowledge of such counsel, none of the Company, any of its subsidiaries or the Partnerships is in violation of any judgment, ruling, decree, order, franchise, license or permit known to us or any statute, rule or regulation of any court or other governmental agency or body applicable to the business or properties of the Company, any of its subsidiaries or the Partnerships; where such violation or default, individually or in the aggregate, might have a material adverse effect on the business, properties, business prospects, condition (financial or otherwise) or results of operations of the Company or any of its subsidiaries taken as a whole.

In connection with delivering such opinion such counsel shall also state:

- (a) No facts have come to their attention which cause them to believe that the Registration Statement (excluding the financial statements and notes thereto, financial schedules and other financial or statistical information and data included therein or omitted therefrom, as to which they need express no opinion), at the time it became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and
- (b) No facts have come to their attention which cause them to believe that the Prospectus (excluding the financial statements and notes thereto, financial schedules and other financial or statistical information and data included therein or omitted therefrom, as to which they need express no opinion), as of its date or the date of such opinion, contained or contains an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

In rendering such opinions, such counsel may rely on certificates of public officers, upon opinions of counsel reasonably satisfactory to the Underwriter, copies of which shall be contemporaneously delivered to the Underwriter, and as to matters of fact, upon certificates of officers of the Company; provided that such counsel shall state that the opinion of any other counsel is in form satisfactory to such counsel and, such counsel is unaware of any reason why it and the Underwriter are not justified in relying on such

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opinions of other counsel. Copies of all such opinions and certificates shall be furnished to counsel to the Underwriter on the Closing Date.

(e) You shall have received from O'Melveny & Myers LLP, counsel for the Underwriter (based upon Goodwin Procter & Hoar LLP's opinion respecting Maryland law), such opinion or opinions, dated the Closing Date, with respect to the organization of the Company, the validity of the Shares, the Registration Statement, the Prospectus and other related matters as you reasonably may request, and such counsel shall have received such papers and information as they request to enable them to pass upon such matters. In rendering such opinion, such counsel may rely upon certificates of public officers and upon opinions of counsel, copies of which shall be contemporaneously delivered to the Underwriter, and as to matters of fact, upon certificates of officers of the Company.

(f) At the time of the execution of this Agreement, the Underwriter shall have received from Coopers & Lybrand a letter dated such date, in form and substance satisfactory to the Underwriter containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and other financial information included in the Registration Statement and the Prospectus (the "initial comfort letter"). On the Closing Date, you shall have received from Coopers & Lybrand a letter dated as of the Closing Date to the effect that they reaffirm the statements made in the initial comfort letter, except that the specified date referred to shall be a date not more than five days prior to the Closing Date.

(g) You shall have received from the Company a certificate, signed by the Chairman of the Board or the President and by the principal financial or accounting officer of the Company, dated the Closing Date, to the effect that:

(i) The representations and warranties of the Company in this Agreement were when originally made and are at the time such certificate is delivered true and correct, as if made at and as of the Closing Date, and the Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date;

(ii) No stop order suspending the effectiveness of the Registration Statement has been issued, and no proceeding for that purpose has been instituted or is threatened, by the Commission; and

(iii) Since the effective date of the Registration Statement, there has occurred no event required to be set forth in an amendment or supplement to the Registration Statement or Prospectus that has not been so set forth.

(h) The Shares shall have been approved for listing on the New York Stock Exchange and the Pacific Exchange, subject only to official notice of issuance.

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(i) The Company shall have furnished to you such further certificates and documents as you shall have reasonably requested.

All such opinions, certificates, letters and other documents will be in compliance with the provisions hereof only if they are satisfactory in form and substance to you. The Company will furnish you with such conformed copies of such opinions, certificates, letters and other documents as you shall reasonably request.

6. INDEMNIFICATION AND CONTRIBUTION.

(a) The Company will indemnify and hold harmless the Underwriter, the directors, officers, employees and agents of the Underwriter and each person, if any, who controls the Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act from and against any and all losses, claims, liabilities, expenses and damages (including, but not limited to, any and all investigative, legal and other expenses reasonably incurred in connection with, and any and all amounts paid in settlement of, any action, suit or proceeding between any of the indemnified parties and any indemnifying parties or between any indemnified party and any third party, or otherwise, or any claim asserted), as and when incurred, to which the Underwriter, or any such person may become subject under the Act, the Exchange Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, liabilities, expenses or damages arise out of or are based on (i) any untrue statement or alleged untrue statement of a material fact contained in any preliminary prospectus, the Registration Statement or the Prospectus or any amendment or supplement to the Registration Statement or the Prospectus, or in any application or other document executed by the Company and filed in any jurisdiction in order to qualify the Shares under the securities laws thereof or filed with the Commission, (ii) the omission or alleged omission to state in such document a

material fact required to be stated in it or necessary to make the statements in it not misleading or (iii) any act or failure to act or any alleged act or failure to act by the Underwriter in connection with, or relating in any manner to, the Shares or the offering contemplated hereby, and which is included as part of or referred to in any loss, claim, liability, expense or damage arising out of or based upon matters covered by clause (i) or (ii) above (provided that the Company shall not be liable under this clause (iii) to the extent it is finally judicially determined by a court of competent jurisdiction that such loss, claim, liability, expense or damage resulted directly from any such acts or failures to act undertaken or omitted to be taken by such underwriter through its gross negligence or willful misconduct); provided that the Company will not be liable to the extent that such loss, claim, liability, expense or damage (A) arises from the sale of the Shares in the public offering to any person by the Underwriter and is based on an untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to the Underwriter furnished to the Company by the Underwriter expressly for inclusion in the Registration Statement, any preliminary prospectus or the Prospectus or (B) results solely from an untrue statement of a material fact contained in, or the omission of a material fact from, such preliminary prospectus or Prospectus, which

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untrue statement or omission was completely corrected in the Prospectus (as then amended or supplemented) if the Company shall sustain the burden of proving that the Underwriter sold Shares to the person alleging such loss, claim, liability, expense or damage without sending or giving, at or prior to the written confirmation of such sale, a copy of the Prospectus (as then amended or supplemented) if the Company had previously furnished copies thereof to the Underwriter within a reasonable amount of time prior to such sale or such confirmation, and the Underwriter failed to deliver the corrected Prospectus, if required by law to have so delivered it and if delivered would have been a complete defense against the person asserting such loss, claim, liability, expense or damage. This indemnity agreement will be in addition to any liability that the Company might otherwise have.

(b) The Underwriter will indemnify and hold harmless the Company, each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, each director of the Company and each officer of the Company who signs the Registration Statement to the same extent as the foregoing indemnity from the Company to the Underwriter, but only insofar as losses, claims, liabilities, expenses or damages arise out of or are based on any untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to the Underwriter furnished to the Company by the Underwriter expressly for use in the Registration Statement, the Preliminary Prospectus or the Prospectus. This indemnity will be in addition to any liability that the Underwriter might otherwise have; provided, however, that in no case shall the Underwriter be liable or responsible for any amount in excess of the underwriting discounts and commissions received by the Underwriter.

(c) Any party that proposes to assert the right to be indemnified under this Section 6 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 6, notify each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve it from any liability that it may have to any indemnified party under the foregoing provisions of this Section 6 unless, and only to the extent that, such omission results in the forfeiture of substantive rights or defenses by the indemnifying party. If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects by delivering written notice to the indemnified party promptly after receiving notice of the commencement of the action from the indemnified party, jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable costs of investigation subsequently incurred by the indemnified party in connection with the defense. The indemnified party will have the right to employ its own counsel in any such

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action, but the fees, expenses and other charges of such counsel will be at the

expense of such indemnified party unless (1) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party, (2) the indemnified party has reasonably concluded (based on advice of counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party, (3) a conflict or potential conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party) or (4) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees, disbursements and other charges will be reimbursed by the indemnifying party promptly as they are incurred. An indemnifying party will not be liable for any settlement of any action or claim effected without its written consent (which consent will not be unreasonably withheld). No indemnifying party shall, without the prior written consent of each indemnified party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated by this Section 6 (whether or not any indemnified party is a party thereto), unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising or that may arise out of such claim, action or proceeding.

(d) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in the foregoing paragraphs of this Section 6 is applicable in accordance with its terms but for any reason is held to be unavailable from the Company or the Underwriter, the Company and the Underwriter will contribute to the total losses, claims, liabilities, expenses and damages (including any investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, but after deducting any contribution received by the Company from persons other than the Underwriter, such as persons who control the Company within the meaning of the Act, officers of the Company who signed the Registration Statement and directors of the Company, who also may be liable for contribution) to which the Company and the Underwriter may be subject in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriter on the other. The relative benefits received by the Company on the one hand and the Underwriter on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriter, in each case as set forth in the table on the cover page of the Prospectus. If, but only if, the

allocation provided by the foregoing sentence is not permitted by applicable law, the allocation of contribution shall be made in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing sentence but also the relative fault of the Company, on the one hand, and the Underwriter, on the other, with respect to the statements or omissions which resulted in such loss, claim, liability, expense or damage, or action in respect thereof, as well as any other relevant equitable considerations with respect to such offering. Such relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriter, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriter agree that it would not be just and equitable if contributions pursuant to this Section 6(d) were to be determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, liability, expense or damage, or action in respect thereof, referred to above in this Section 6(d) shall be deemed to include, for purpose of this Section 6(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 6(d), the Underwriter shall not be required to contribute any amount in excess of the underwriting discounts and commissions received by it and no person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 6(d), any person who controls a party to this Agreement within the meaning of the Act will have the same rights to contribution as that party, and each officer of the Company who signed the

Registration Statement will have the same rights to contribution as the Company, subject in each case to the provisions hereof. Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 6(d), will notify any such party or parties from whom contribution may be sought, but the omission so to notify will not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 6(d). Except for a settlement entered into pursuant to the last sentence of Section 6(c) hereof, no party will be liable for contribution with respect to any action or claim settled without its written consent (which consent will not be unreasonably withheld).

(e) The indemnity and contribution agreements contained in this Section 6 and the representations and warranties of the Company contained in this Agreement shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of the Underwriter, (ii) acceptance of the Shares and payment therefor or (iii) any termination of this Agreement.

7. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY. All representations, warranties, agreements and covenants, of the Company herein or in certificates delivered

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pursuant hereto, and the agreements of the Underwriter contained in Section 6 hereof, shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Underwriter or any controlling persons, or the Company or any of its officers, directors or any controlling persons, and shall survive delivery of and payment for the Shares hereunder.

8. SUBSTITUTION OF UNDERWRITERS. [Intentionally Omitted.]

9. TERMINATION. You shall have the right, by giving notice as hereinafter specified at any time at or prior to the Closing Date, to terminate this Agreement if (i) the Company shall have failed, refused or been unable, at or prior to the Closing Date, to perform any agreement on its part to be performed hereunder, (ii) any other condition of the Underwriter's obligations hereunder is not fulfilled, (iii) trading on the New York Stock Exchange shall have been wholly suspended, (iv) minimum or maximum prices for trading shall have been fixed, or maximum ranges for prices for securities shall have been required, on the New York Stock Exchange by such exchange or by order of the Commission or any other governmental authority having jurisdiction, (v) a banking moratorium shall have been declared by Federal or New York authorities, or (vi) any material adverse change in the financial or securities markets in the United States or in political, financial or economic conditions in the United States, any outbreak or material escalation of hostilities in which the United States is involved, a declaration of war by Congress, any other substantial national or international calamity or any other event or occurrence of a similar character shall have occurred since the execution of this Agreement that, in your judgment, makes it impractical or inadvisable to proceed with the completion of the sale of and payment for the Shares. Any such termination shall be without liability of any party to any other party with respect to Shares not purchased by reason of such termination except that the provisions of Section 4(f) (costs and expenses) and Section 6 (indemnification and contribution) hereof shall at all times be effective. If you elect to terminate this Agreement as provided in this Section, the Company shall be notified promptly by you by telephone, telex or telecopy, confirmed by letter.

10. NOTICES. All notices or communications hereunder shall be in writing and if sent to you shall be mailed, delivered, telexed or telecopied and confirmed to you, c/o PaineWebber Incorporated, 1285 Avenue of the Americas, New York, New York 10019, Attention: Corporate Finance Department, or if sent to the Company, shall be mailed, delivered, telexed or telecopied and confirmed to the Company at 4340 Stevens Creek Boulevard, Suite 275, San Jose, California 95129, Attention: President. Any party to this Agreement may change such address for notices by sending to the parties to this Agreement written notice of a new address for such purpose.

11. PARTIES. This Agreement shall inure to the benefit of and be binding upon the Company and the Underwriter and their respective successors and the persons or entities referred to in Section 6 hereof, and no other person will have any right or obligation hereunder.

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12. APPLICABLE LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

13. COUNTERPARTS. This Agreement may be signed in two or more counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

14. SEVERABILITY. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

15. WAIVERS OF TRIAL BY JURY. The Company and the Underwriter each hereby irrevocably waive any right they may have to a trial by jury in respect of any claim based upon or arising out of this Agreement or the transactions contemplated hereby.

[remainder of page intentionally left blank]

If the foregoing correctly sets forth the understanding between the Company and Underwriter, please so indicate in the space provided below for that purpose, whereupon this letter shall constitute a binding agreement between the Company and the Underwriter.

Very truly yours,

BAY APARTMENT COMMUNITIES, INC.

By: /s/ Gilbert M. Meyer

Gilbert M. Meyer
President

ACCEPTED as of the date
first above written

PAINWEBBER INCORPORATED

By: /s/ Frederick T. Caven, Jr.

Frederick T. Caven, Jr.
Managing Director

SCHEDULE A

<TABLE>
<CAPTION>

Underwriter -----	Amount of Shares to be Purchased -----
<S> PaineWebber Incorporated	<C> 156,600

</TABLE>

EXHIBIT I

AND PROSPECTUS FURNISHED BY
THE UNDERWRITER

The following information appearing in the Prospectus has been furnished by the Underwriter in writing specifically for use in the preparation of the Prospectus:

None

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EXHIBIT II

LIST OF SUBSIDIARIES

Bay Apartment Communities, Inc. (the "Company") owns interests in the following entities:

SUBSIDIARIES

1. Bay Asset Group, Inc., a Maryland corporation, is a wholly-owned subsidiary of the Company.
2. Bay GP, Inc., a Maryland corporation, is a wholly-owned subsidiary of the Company.
3. Bay Development Partners, Inc., a Maryland corporation, is a wholly-owned subsidiary of Bay Asset Group, Inc.
4. Bay Waterford, Inc., a Maryland corporation, is a wholly-owned subsidiary of Bay Asset Group, Inc.

PARTNERSHIPS

1. Bay GP, Inc. is the sole general partner of Bay Countrybrook, L.P., a Delaware limited partnership. There are third-party limited partners.
2. Bay Development Partners, Inc. is the sole general partner of San Francisco Bay Partners II, Ltd., a California limited partnership. There is one third-party limited partner.
3. Bay Development Partners, Inc. is the sole general partner of San Francisco Bay Partners III, L.P., a California limited partnership. The Company is the sole limited partner.
4. Bay Development Partners, Inc. is the sole partner of Toyon Road San Jose Partners, L.P., a California limited partnership. The Company is the sole limited partner.
5. Bay Development Partners, Inc. is the sole general partner of Foxchase Drive San Jose Partners II, L.P., a California limited partnership. The Company is the sole limited partner.
6. The Company is the sole general partner of Bay Rincon, L.P., a California limited partnership.
7. The Company is the sole general partner of Bay Pacific Northwest, L.P., a Delaware limited partnership. There are third-party limited partners.

LIENS

The Financial Guaranty Insurance Company has a lien on all of the issued and outstanding capital stock of Bay Waterford, Inc. and Bay Development Partners, Inc.

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EXHIBIT III

PRICE DETERMINATION AGREEMENT

December 8, 1997

PAINWEBBER INCORPORATED
1285 Avenue of the Americas
New York, New York 10019

Ladies and Gentlemen:

Reference is made to the Underwriting Agreement, dated December 8, 1997 (the "Underwriting Agreement"), among Bay Apartment Communities, a Maryland corporation (the "Company"), and PaineWebber Incorporated (the "Underwriter"). The Underwriting Agreement provides for the purchase by the Underwriter from the Company, subject to the terms and conditions set forth therein, of an aggregate of 156,600 shares (the "Shares") of the Company's common stock, par value \$0.01 per share. This Agreement is the Price Determination Agreement referred to in the Underwriting Agreement.

Pursuant to Section 3 of the Underwriting Agreement, the undersigned agrees with the Underwriter as follows:

The public offering price per share for the Firm Shares shall be \$39.125.

The purchase price per share for the Firm Shares to be paid by the Underwriter shall be \$[38.3425] representing an amount equal to the public offering price set forth above, less \$[0.7825 (2% of the public offering price)] per share.

The Company represents and warrants to the Underwriter that the representations and warranties of the Company set forth in Section 2 of the Underwriting Agreement are accurate as though expressly made at and as of the date hereof.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

If the foregoing is in accordance with your understanding of the agreement between the Underwriter and the Company, please sign and return to the Company a counterpart hereof, whereupon this instrument along with all counterparts and together

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with the Underwriting Agreement shall be a binding agreement between the Underwriter and the Company in accordance with its terms and the terms of the Underwriting Agreement.

Very truly yours,

BAY APARTMENT COMMUNITIES, INC.

By: /s/ Gilbert M. Meyer

Gilbert M. Meyer
President

ACCEPTED as of the date
first above written

PAINWEBBER INCORPORATED

By: /s/ Frederick T. Caven, Jr.

Frederick T. Caven, Jr.
Managing Director

=====

SECOND AMENDED AND RESTATED
 REVOLVING LOAN AGREEMENT
 dated as of November 21, 1997
 among
 BAY APARTMENT COMMUNITIES, INC.,
 as Borrower,
 UNION BANK OF SWITZERLAND
 (New York Branch),
 as Co-Agent and Bank,
 UNION BANK OF CALIFORNIA, N.A.,
 as Co-Agent and Bank,
 the other banks signatory hereto,
 each as a Bank
 and
 UNION BANK OF SWITZERLAND
 (New York Branch),
 as Administrative Agent

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SECOND AMENDED AND RESTATED REVOLVING LOAN AGREEMENT dated as of November 21, 1997 among BAY APARTMENT COMMUNITIES, INC., a corporation organized and existing under the laws of the State of Maryland ("Borrower"), UNION BANK OF SWITZERLAND (New York Branch) (in its individual capacity and not as Administrative Agent, "UBS"), UNION BANK OF CALIFORNIA, N.A. ("UBC"), the other lenders signatory hereto and UNION BANK OF SWITZERLAND (New York Branch), as administrative agent for the Banks (in such capacity, together with its successors in such capacity, "Administrative Agent"; UBS, UBC, the other lenders

signatory hereto, such other lenders who from time to time become Banks pursuant to Section 3.07 or 12.05 and, if applicable, any of the foregoing lenders' Designated Lender, each a "Bank" and collectively, the "Banks").

Borrower, UBS, UBC and the other lenders signatory thereto and Administrative Agent entered into an Amended and Restated Revolving Loan Agreement dated as of July 2, 1997 (the "Prior Credit Agreement") which provided for a revolving line of credit in the amount of up to \$200,000,000 in favor of Borrower. Borrower has requested a \$150,000,000 increase in the amount of the credit provided by the Prior Credit Agreement, as well as certain amendments thereto. Administrative Agent and the Banks have agreed to Borrower's requests pursuant to the terms and conditions of this Second Amended and Restated Revolving Loan Agreement, which amends and restates the Prior Credit Agreement in its entirety.

In order to facilitate the implementation of the \$150,000,000 increase in the Total Loan Commitment and in the individual Loan Commitment of UBS from that set forth in the Prior Credit Agreement to that set forth herein, the parties hereto agree that on the date hereof UBS will make an "equalization" payment to each of the other Banks in reduction of the principal currently outstanding under each of said Banks' respective Ratable Loan Notes so that, following such increase and the making of such payments, the outstanding percentage of each Bank's Loan Commitment (I.E., the ratio of the outstanding principal amount under each Bank's Ratable Loan Note to its Loan Commitment) shall be the same as the outstanding percentage of every other Bank's Loan Commitment. The aggregate amount of such payment by UBS shall constitute outstanding principal under the Ratable Loan Note(s) held by UBS. The principal amount outstanding under each Bank's Ratable Loan Note prior and subsequent to the increase in the Total Loan Commitment and in the individual Loan Commitment of UBS provided for herein, and the amount of the aforesaid payment to be made by UBS to each of the Banks in order to effect equalization, are as set forth on Schedule A attached hereto and made a part hereof. Notwithstanding anything herein to the contrary, Borrower shall not be responsible for any LIBOR "breakage" costs in connection with the aforesaid equalization payments.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, covenants and conditions hereinafter set forth, the Prior Credit Agreement is hereby amended and restated in its entirety and Borrower, Administrative Agent and each of the Banks agree as follows:

ARTICLE I. DEFINITIONS; ETC.

Section 1.01 DEFINITIONS. As used in this Agreement the following terms have the following meanings (except as otherwise provided, terms defined in the singular to have a correlative meaning when used in the plural and VICE VERSA):

"Acquisition" means the acquisition by Borrower, directly or indirectly, of an interest in real estate.

"Adjusted Loan Commitment" means with respect to each Bank, at any time, such Bank's Pro Rata Share of the Adjusted Total Loan Commitment.

"Adjusted Total Loan Commitment" means the Total Loan Commitment LESS the Toscana Apartments Holdback.

"Administrative Agent" has the meaning specified in the preamble.

"Administrative Agent's Office" means Administrative Agent's address located at 299 Park Avenue, New York, NY 10171, or such other address in the United States as Administrative Agent may designate by written notice to Borrower and the Banks.

"Affiliate" means, with respect to any Person (the "first Person"), any other Person (1) which directly or indirectly controls, or is controlled by, or is under common control with the first Person; or (2) 10% or more of the beneficial interest in which is directly or indirectly owned or held by the first Person. The term "control" means the possession, directly or indirectly, of the power, alone, to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"Agreement" means this Amended and Restated Revolving Loan Agreement.

"Applicable Lending Office" means, for each Bank and for its LIBOR Loan, Bid Rate Loan(s) or Base Rate Loan, as applicable, the lending office of such Bank (or of an Affiliate of such Bank) designated as such on its signature page hereof or in the applicable Assignment and Assumption Agreement, or such other office of such Bank (or of an Affiliate of such Bank) as such Bank may from time to time specify to Administrative Agent and Borrower as the office by which its LIBOR Loan, Bid Rate Loan(s) or Base Rate Loan, as applicable, is to be made and maintained.

"Applicable Margin" means, with respect to the LIBOR Interest Rate and LIBOR Loans (and for purposes of determining the Banks' L/C Fee Rate under Section 2.16(f)), the respective rates per annum determined at any time, based on the range into which Borrower's Credit Rating then falls, in accordance with the following table, subject to possible adjustment in accordance with the definition of "Borrower's Credit Rating" set forth in this Section 1.01

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(any change in Borrower's Credit Rating causing it to move to a different range on the table shall effect an immediate change in the Applicable Margin):

Range of Borrower's Credit Rating (S&P/Moody's/ Other Agency Ratings) -----	Applicable Margin (% per annum) -----
below BBB-/below Baa3/ other agency equivalent (or unrated)	1.25
BBB-/Baa3/ other agency equivalent	1.00
BBB/Baa2/other agency equivalent	0.90
BBB+/Baa1/other agency equivalent	0.80
A-or higher/A3 or higher/other agency equivalent	0.70.

"Assignee" has the meaning specified in Section 12.05.

"Assignment and Assumption Agreement" means an Assignment and Assumption Agreement, substantially in the form of EXHIBIT E, pursuant to which a Bank assigns and an Assignee assumes rights and obligations in accordance with Section 12.05.

"Authorization Letter" means a letter agreement executed by Borrower in the form of EXHIBIT A.

"Available Total Loan Commitment" has the meaning specified in Section 2.01(b).

"Bank" and "Banks" have the respective meanings specified in the preamble; PROVIDED, HOWEVER, that the term "Bank" shall exclude each Designated Lender when used in reference to a Ratable Loan, the Loan Commitments or terms relating to the Ratable Loans and the Loan Commitments.

"Bank Parties" means Administrative Agent and the Banks.

"Banking Day" means (1) any day on which commercial banks are not authorized or required to close in New York City and (2) whenever such day relates to a LIBOR Loan, a Bid Rate Loan, an Interest Period with respect to a LIBOR Loan or a Bid Rate Loan, or notice with respect to a LIBOR Loan or a Bid Rate Loan, a day on which dealings in Dollar deposits are also carried out in the London interbank market and banks are open for business in London.

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"Base Rate" means, for any day, the higher of (1) the Federal Funds Rate for such day plus .50%, or (2) the Prime Rate for such day.

"Base Rate Loan" means all or any portion (as the context requires) of a Bank's Ratable Loan which shall accrue interest at a rate determined in relation to the Base Rate.

"Bid Borrowing Limit" means 50% of the Total Loan Commitment.

"Bid Rate Loan" has the meaning specified in Section 2.01(c).

"Bid Rate Loan Note" has the meaning specified in Section 2.08.

"Bid Rate Quote" means an offer by a Bank to make a Bid Rate Loan in accordance with Section 2.02.

"Bid Rate Quote Request" has the meaning specified in Section 2.02(a).

"Borrower" has the meaning specified in the preamble.

"Borrower's Accountants" means Coopers & Lybrand, or such other accounting firm(s) selected by Borrower and reasonably acceptable to the Required Banks.

"Borrower's Consolidated Financial Statements" means the consolidated

balance sheet and related consolidated statement of operations, accumulated deficiency in assets and cash flows, and footnotes thereto, of Borrower, prepared in accordance with GAAP.

"Borrower's Credit Rating" means the rating assigned from time to time to Borrower's unsecured and unsubordinated long-term indebtedness by, respectively, S&P, Moody's and/or another rating agency acceptable to Administrative Agent in its sole discretion, PROVIDED, HOWEVER, that prior to such time as Borrower's unsecured and unsubordinated long-term indebtedness is so rated, and if Borrower's preferred stock is so rated, "Borrower's Credit Rating" shall be deemed to be one-half (1/2) ratings level higher than the actual rating given to Borrower's preferred stock by, respectively, S&P, Moody's and/or another rating agency acceptable to Administrative Agent in its sole discretion. In connection with the foregoing, it is understood that if more than one (1) of the rating agencies identified above assigns a rating to Borrower's long-term indebtedness (or preferred stock), the following shall apply: (i) if the aforesaid ratings are greater than one (1) ratings level apart, "Borrower's Credit Rating" shall be the lower of the ratings assigned to Borrower's long term indebtedness (or one-half a ratings level above the lower of the ratings assigned to Borrower's preferred stock); or (ii) if the aforesaid ratings are less than or equal to one (1) ratings level apart, the Applicable Margin shall be the average of the Applicable Margins corresponding to such ratings of Borrower's long-term indebtedness (or one-half a ratings level above such ratings of Borrower's preferred stock) as set forth in the table in the definition of "Applicable Margin" in this Section 1.01. (For purposes of the foregoing, "one (1) ratings level apart" means, for example, the increment between S&P's BBB- and BBB+, and "one half (1/2) ratings level apart" means, for example, the

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increment between S&P's BBB- and BBB.) Unless such indebtedness or preferred stock of Borrower, as the case may be, is rated by at least one of the rating agencies identified above, "Borrower's Credit Rating" shall be considered unrated for purposes of this Agreement.

"Borrower's Principals" means the officers and directors of Borrower at any applicable time.

"Borrower's Share of UJV Combined Outstanding Indebtedness" means the sum of the indebtedness of each of the UJVs contributing to UJV Combined Outstanding Indebtedness multiplied by Borrower's respective beneficial fractional interests in each such UJV.

"Capitalization Value" means, as of the end of any calendar quarter, the sum of (1) Combined EBITDA (less all leasing commissions and management and development fees, net of any expenses applicable thereto, contributing to Combined EBITDA) for such quarter annualized (i.e., multiplied by four (4)), capitalized at a rate of 8.25% per annum (i.e., divided by 8.25%), and (2) such leasing commissions and management and development fees for such quarter, annualized, (I.E., multiplied by four (4)), capitalized at a rate of 25% per annum (I.E., divided by 25%), (3) cash and marketable securities of Borrower and its Consolidated Businesses, as of the end of such quarter, as reflected in Borrower's Consolidated Financial Statements, and (4) the lesser of (a) the aggregate book value (on a cost basis) of the properties of Borrower and its Consolidated Businesses under development plus Borrower's beneficial interest in the book value (on a cost basis) of the properties of the UJVs under development or (b) 25% of the sum of the amounts determined pursuant to clauses (1), (2) and (3) of this definition.

"Capital Lease" means any lease which has been or should be capitalized on the books of the lessee in accordance with GAAP.

"Closing Date" means the date this Agreement has been executed by all parties.

"Co-Agent" means each of UBS and UBC and "Co-Agents" means UBS and UBC collectively.

"Code" means the Internal Revenue Code of 1986.

"Combined Debt Service" means, for any period of time, (1) total debt service (including principal) paid or payable by Borrower and its Consolidated Businesses during such period (other than debt service on construction loans until completion of the relevant construction) plus a deemed annual capital expense charge of \$150 per apartment unit owned by Borrower or its Consolidated Businesses PLUS (2) Borrower's beneficial interest in (a) total debt service (including principal) paid or payable by the UJVs during such period (other than debt service on construction loans until completion of the relevant construction plus (b) a

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deemed annual capital expense charge of \$150 per apartment unit owned by the

UJVs PLUS (3) preferred dividends paid or payable by Borrower and its Consolidated Businesses during such period.

"Combined EBITDA" means, for any period of time, the sum, without duplication, of (1) revenues less operating expenses and property taxes before Interest Expense, general and administrative expenses (for purposes of this calculation, such general and administrative expenses not to exceed 5% of total revenues), income taxes, gains or losses on the sale of real estate and/or marketable securities, depreciation and amortization and extraordinary items for Borrower and its Consolidated Businesses, and (2) Borrower's beneficial interest in revenues less operating expenses and property taxes before Interest Expense, general and administrative expenses (for purposes of this calculation, such general and administrative expenses not to exceed 5% of total revenues), income taxes, gains or losses on the sale of real estate and/or marketable securities, depreciation and amortization and extraordinary items (after eliminating appropriate intercompany amounts) applicable to each of the UJVs, in all cases as reflected in Borrower's Consolidated Financial Statements.

"Consolidated Businesses" means, collectively, each Affiliate of Borrower who is or should be included in Borrower's Consolidated Financial Statements in accordance with GAAP.

"Consolidated Outstanding Indebtedness" means, as of any time, all indebtedness and liability for borrowed money, secured or unsecured, of Borrower and its Consolidated Businesses, including mortgage and other notes payable but excluding any indebtedness which is margin indebtedness on cash and cash equivalent securities, all as reflected in Borrower's Consolidated Financial Statements.

"Continue", "Continuation" and "Continued" refer to the continuation pursuant to Section 2.12 of a LIBOR Loan as a LIBOR Loan from one Interest Period to the next Interest Period.

"Convert", "Conversion" and "Converted" refer to a conversion pursuant to Section 2.12 of a Base Rate Loan into a LIBOR Loan or a LIBOR Loan into a Base Rate Loan, each of which may be accompanied by the transfer by a Bank (at its sole discretion) of all or a portion of its Ratable Loan from one Applicable Lending Office to another.

"Debt" means (1) indebtedness or liability for borrowed money, or for the deferred purchase price of property or services (including trade obligations); (2) obligations as lessee under Capital Leases; (3) current liabilities in respect of unfunded vested benefits under any Plan; (4) obligations under letters of credit issued for the account of any Person; (5) all obligations arising under bankers' or trade acceptance facilities; (6) all guarantees, endorsements (other than for collection or deposit in the ordinary course of business), and other contingent obligations to purchase any of the items included in this definition, to provide funds for payment, to supply funds to invest in any Person, or otherwise to assure a creditor

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against loss; (7) all obligations secured by any Lien on property owned by the Person whose Debt is being measured, whether or not the obligations have been assumed; and (8) all obligations under any agreement providing for contingent participation or other hedging mechanisms with respect to interest payable on any of the items described above in this definition.

"Default" means any event which with the giving of notice or lapse of time, or both, would become an Event of Default.

"Default Rate" means a rate per annum equal to: (1) with respect to Base Rate Loans, a variable rate 3% above the rate of interest then in effect thereon; and (2) with respect to LIBOR Loans and Bid Rate Loans, a fixed rate 3% above the rate(s) of interest in effect thereon (including the Applicable Margin or the LIBOR Bid Margin, as the case may be) at the time of Default until the end of the then current Interest Period therefor and, thereafter, a variable rate 3% above the rate of interest for a Base Rate Loan.

"Designated Lender" means a special purpose corporation that (i) shall have become a party to this Agreement pursuant to Section 12.16 and (ii) is not otherwise a Bank.

"Designating Lender" has the meaning specified in Section 12.16.

"Designation Agreement" means an agreement in substantially the form of EXHIBIT H, entered into by a Bank and a Designated Lender and accepted by Administrative Agent.

"Disposition" means a sale (whether by assignment, transfer or Capital Lease) of an asset.

"Dollars" and the sign "\$" mean lawful money of the United States of America.

"Elect", "Election" and "Elected" refer to election, if any, by Borrower pursuant to Section 2.12 to have all or a portion of an advance of the Ratable Loans be outstanding as LIBOR Loans.

"Environmental Discharge" means any discharge or release of any Hazardous Materials in violation of any applicable Environmental Law.

"Environmental Law" means any applicable Law relating to pollution or the environment, including Laws relating to noise or to emissions, discharges, releases or threatened releases of Hazardous Materials into the work place, the community or the environment, or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

"Environmental Notice" means any written complaint, order, citation or notice from any Person (1) affecting or relating to Borrower's compliance with any Environmental Law in

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connection with any activity or operations at any time conducted by Borrower, (2) relating to (a) the existence of any Hazardous Materials contamination or Environmental Discharges or threatened Hazardous Materials contamination or Environmental Discharges at any of Borrower's locations or facilities or (b) remediation of any Environmental Discharge or Hazardous Materials at any such location or facility or any part thereof; or (3) any violation or alleged violation by Borrower of any relevant Environmental Law.

"Equity Value" means, at any time, (1) Capitalization Value less (2) Total Outstanding Indebtedness.

"ERISA" means the Employee Retirement Income Security Act of 1974, including the rules and regulations promulgated thereunder.

"ERISA Affiliate" means any corporation which is a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Code) as Borrower, or any trade or business which is under common control (within the meaning of Section 414(c) of the Code) with Borrower, or any organization which is required to be treated as a single employer with Borrower under Section 414(m) or 414(o) of the Code.

"Event of Default" has the meaning specified in Section 9.01.

"Federal Funds Rate" means, for any day, the rate per annum (expressed on a 360-day basis of calculation) equal to the weighted average of the rates on overnight federal funds transactions as published by the Federal Reserve Bank of New York for such day provided that (1) if such day is not a Banking Day, the Federal Funds Rate for such day shall be such rate on such transactions on the immediately preceding Banking Day as so published on the next succeeding Banking Day; and (2) if no such rate is so published on such next succeeding Banking Day, the Federal Funds Rate for such day shall be the average of the rates quoted by three (3) Federal Funds brokers to Administrative Agent on such day on such transactions.

"Fiscal Year" means each period from January 1 to December 31.

"Funds From Operations" means Combined EBITDA less the sum of Interest Expense and income taxes included in Combined EBITDA.

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time, applied on a basis consistent with those used in the preparation of the financial statements referred to in Section 5.13 (except for changes concurred in by Borrower's Accountants).

"Good Faith Contest" means the contest of an item if: (1) the item is diligently contested in good faith, and, if appropriate, by proceedings timely instituted; (2) reserves that are adequate based on reasonably foreseeable likely outcomes are established with respect to the contested item; (3) during the period of such contest, the enforcement of any contested item

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is effectively stayed, delayed or postponed; and (4) the failure to pay or comply with the contested item during the period of the contest is not likely to result in a Material Adverse Change.

"Governmental Approvals" means any authorization, consent, approval, license, permit, certification, or exemption of, registration or filing with or report or notice to, any Governmental Authority.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative,

judicial, regulatory or administrative functions of or pertaining to government.

"Hazardous Materials" means any pollutant, effluents, emissions, contaminants, toxic or hazardous wastes or substances, as any of those terms are defined from time to time in or for the purposes of any relevant Environmental Law, including asbestos fibers and friable asbestos, polychlorinated biphenyls, and any petroleum or hydrocarbon-based products or derivatives.

"Initial Advance" means the first advance of proceeds of the Loans.

"Interest Expense" means, for any period of time, the consolidated interest expense (without deduction of consolidated interest income, and excluding (x) interest expense on construction loans and (y) other capitalized interest expense in respect of construction loans, in any such case under clauses (x) or (y), only until completion of the relevant construction) of Borrower and its Consolidated Businesses, including, without limitation or duplication (or, to the extent not so included, with the addition of), (1) the portion of any rental obligation in respect of any Capital Lease obligation allocable to interest expense in accordance with GAAP; (2) the amortization of Debt discounts; (3) any payments or fees (other than up-front fees) with respect to interest rate swap or similar agreements; and (4) the interest expense and items listed in clauses (1) through (3) above applicable to each of the UJVs multiplied by Borrower's respective beneficial interests in the UJVs, in all cases as reflected in Borrower's Consolidated Financial Statements.

"Interest Period" means, (1) with respect to any LIBOR Loan, the period commencing on the date the same is advanced, converted from a Base Rate Loan or Continued, as the case may be, and ending, as Borrower may select pursuant to Section 2.05, on the numerically corresponding day in the first, second or third calendar month thereafter, provided that each such Interest Period which commences on the last Banking Day of a calendar month (or on any day for which there is no numerically corresponding day in the appropriate subsequent calendar month) shall end on the last Banking Day of the appropriate calendar month; and (2) with respect to any Bid Rate Loan, the period commencing on the date the same is advanced and ending, as Borrower may select pursuant to Section 2.02, on the numerically corresponding day in the first, second or third calendar month thereafter, provided that each such Interest Period which commences on the last Banking Day of a calendar month (or on any

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day for which there is no numerically corresponding day in the appropriate subsequent calendar month) shall end on the last Banking Day of the appropriate calendar month.

"Invitation for Bid Rate Quotes" has the meaning specified in Section 2.02 (b).

"Law" means any federal, state or local statute, law, rule, regulation, ordinance, order, code, or rule of common law, now or hereafter in effect, and in each case as amended, and any judicial or administrative order, consent decree or judgment.

"Letter of Credit" has the meaning specified in Section 2.16(a).

"LIBOR Base Rate" means, with respect to any Interest Period therefor, the rate per annum (rounded upwards if necessary to the nearest 1/16 of 1%) quoted at approximately 11:00 a.m., New York time, by the principal New York branch of UBS two (2) Banking Days prior to the first day of such Interest Period for the offering to leading banks in the London interbank market of Dollar deposits in immediately available funds, for a period, and in an amount, comparable to such Interest Period and principal amount of the LIBOR Loan or Bid Rate Loan, as the case may be, in question outstanding during such Interest Period.

"LIBOR Bid Margin" has the meaning specified in Section 2.02(c) (2).

"LIBOR Bid Rate" means the rate per annum equal to the sum of (1) the LIBOR Interest Rate for the Bid Rate Loan and Interest Period in question and (2) the LIBOR Bid Margin.

"LIBOR Interest Rate" means, for any LIBOR Loan or Bid Rate Loan, a rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by Administrative Agent to be equal to the quotient of (1) the LIBOR Base Rate for such LIBOR Loan or Bid Rate Loan, as the case may be, for the Interest Period therefor divided by (2) one minus the LIBOR Reserve Requirement for such LIBOR Loan or Bid Rate Loan, as the case may be, for such Interest Period.

"LIBOR Loan" means all or any portion (as the context requires) of any Bank's Ratable Loan which shall accrue interest at rate(s) determined in relation to LIBOR Interest Rate(s).

"LIBOR Reserve Requirement" means, for any LIBOR Loan or Bid Rate Loan, the average maximum rate at which reserves (including any marginal, supplemental or emergency reserves) are required to be maintained during the Interest Period for

such LIBOR Loan or Bid Rate Loan under Regulation D by member banks of the Federal Reserve System in New York City with deposits exceeding \$1,000,000,000 against "Eurocurrency liabilities" (as such term is used in Regulation D). Without limiting the effect of the foregoing, the LIBOR Reserve Requirement shall also reflect any other reserves required to be maintained by such member banks by reason of any Regulatory Change against (1) any category of liabilities which includes deposits by reference to which the LIBOR Base Rate is to be determined as provided

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in the definition of "LIBOR Base Rate" in this Section 1.01 or (2) any category of extensions of credit or other assets which include loans the interest rate on which is determined on the basis of rates referred to in said definition of "LIBOR Base Rate".

"Lien" means any mortgage, deed of trust, pledge, security interest, hypothecation, assignment for collateral purposes, deposit arrangement, lien (statutory or other), or other security agreement or charge of any kind or nature whatsoever of any third party (excluding any right of setoff but including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction to evidence any of the foregoing).

"Loan" means, with respect to each Bank, its Ratable Loan and Bid Rate Loan(s), collectively.

"Loan Commitment" means, with respect to each Bank, the obligation to make a Ratable Loan in the principal amount set forth below (subject to change as a result of assignments by one or more of the Banks pursuant to the third paragraph of Section 12.05) as such amount may be reduced from time to time in accordance with the provisions of Section 2.10:

BANK	LOAN COMMITMENT
UBS	\$180,000,000
UBC	30,000,000
The First National Bank of Chicago	25,000,000
Kredietbank N.V.	21,000,000
Commerzbank AG	20,000,000
Bank of Montreal	20,000,000
Fleet National Bank	19,000,000
CoreStates Bank, N.A.	17,500,000
Dresdner Bank AG	17,500,000
TOTAL:	\$350,000,000
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"Loan Documents" means this Agreement, the Notes, the Authorization Letter and the Solvency Certificate.

"Majority Banks" means at any time the Banks having Pro Rata Shares aggregating at least 51%; PROVIDED, HOWEVER, that during the existence of an Event of Default, the "Majority Banks" shall be the Banks holding at least 51% of the then aggregate unpaid principal amount of the Loans.

"Material Adverse Change" means an effect resulting from any circumstance or event or series of circumstances or events, of whatever nature, which does or could reasonably be

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expected to, either (1) materially and adversely impair the ability of Borrower and its Consolidated Businesses, taken as a whole, to fulfill its material obligations or (2) cause a Default.

"Material Affiliates" means the Affiliates of Borrower described on EXHIBIT C, together with (or excluding) any Affiliates of Borrower which are hereafter from time to time reasonably determined by Administrative Agent to be material (or no longer material), upon written notice to Borrower, based on the most recent Borrower's Consolidated Financial Statements.

"Maturity Date" means May 1, 2000.

"Moody's" means Moody's Investor Service, Inc.

"Multiemployer Plan" means a Plan defined as such in Section 3(37) of ERISA to which contributions have been made by Borrower or any ERISA Affiliate and which is covered by Title IV of ERISA.

"Note" and "Notes" have the respective meanings specified in Section 2.08.

"Obligations" means each and every obligation, covenant and agreement of Borrower, now or hereafter existing, contained in this Agreement, and any of the other Loan Documents, whether for principal, reimbursement obligations, interest, fees, expenses, indemnities or otherwise, and any amendments or supplements thereto, extensions or renewals thereof or replacements therefor, including but not limited to all indebtedness, obligations and liabilities of Borrower to Administrative Agent and any Bank now existing or hereafter incurred under or arising out of or in connection with the Notes, this Agreement, the other Loan Documents, and any documents or instruments executed in connection therewith; in each case whether direct or indirect, joint or several, absolute or contingent, liquidated or unliquidated, now or hereafter existing, renewed or restructured, whether or not from time to time decreased or extinguished and later increased, created or incurred, and including all indebtedness of Borrower, under any instrument now or hereafter evidencing or securing any of the foregoing.

"Parent" means, with respect to any Bank, any Person controlling such Bank.

"PBGC" means the Pension Benefit Guaranty Corporation and any entity succeeding to any or all of its functions under ERISA.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

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"Plan" means any employee benefit or other plan established or maintained, or to which contributions have been made, by Borrower or any ERISA Affiliate and which is covered by Title IV of ERISA or to which Section 412 of the Code applies.

"Presence", when used in connection with any Environmental Discharge or Hazardous Materials, means and includes presence, generation, manufacture, installation, treatment, use, storage, handling, repair, encapsulation, disposal, transportation, spill, discharge and release.

"Prime Rate" means that rate of interest from time to time announced by UBS at its Principal Office as its prime commercial lending rate.

"Principal Office" means the principal office of UBS in the United States, presently located at 299 Park Avenue, New York, New York 10171.

"Pro Rata Share" means, for purposes of this Agreement and with respect to each Bank, a fraction, the numerator of which is the amount of such Bank's Loan Commitment and the denominator of which is the Total Loan Commitment.

"Prohibited Transaction" means any transaction proscribed by Section 406 of ERISA or Section 4975 of the Code and to which no statutory or administrative exemption applies.

"Ratable Loan" has the meaning specified in Section 2.01(b).

"Ratable Loan Note" has the meaning specified in Section 2.08.

"Recourse Debt" means Debt, recourse for the satisfaction of which is not limited to specified collateral.

"Regulation D" means Regulation D of the Board of Governors of the Federal Reserve System, as the same may be amended or supplemented from time to time, or any similar Law from time to time in effect.

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System, as the same may be amended or supplemented from time to time.

"Regulatory Change" means, with respect to any Bank, any change after the date of this Agreement in United States federal, state, municipal or foreign laws or regulations (including Regulation D) or the adoption or making after such date of any interpretations, directives or requests applying to a class of banks including such Bank of or under any United States, federal, state, municipal or foreign laws or regulations (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof.

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"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty (30) day notice period is waived under subsections .13, .14, .16, .18, .19 or .20 of PBGC Reg. ss.2615.

"Required Banks" means at any time the Banks having Pro Rata Shares aggregating at least 66 2/3%; PROVIDED, HOWEVER, that during the existence of an Event of Default, the "Required Banks" shall be the Banks holding at least 66 2/3% of the then aggregate unpaid principal amount of the Loans.

"Secured Indebtedness" means that portion of Total Outstanding Indebtedness that is secured.

"Solvency Certificate" means a certificate in the form of EXHIBIT D, to be delivered by Borrower pursuant to the terms of this Agreement.

"Solvent" means, when used with respect to any Person, that the fair value of the property of such Person, on a going concern basis, is greater than the total amount of liabilities (including, without limitation, contingent liabilities) of such Person.

"S&P" means Standard and Poor's Ratings Services, a division of McGraw-Hill Companies.

"Supplemental Fee Letter" means that certain letter dated May 8, 1996, as amended by agreements dated August 30, 1996, July 2, 1997 and the date hereof, between Administrative Agent and Borrower.

"Toscana Apartments" means the 709-unit apartment project owned by Borrower, known as the Toscana Apartments, currently under construction on an approximately 17.8-acre parcel of land in Sunnyvale, California.

"Toscana Apartments Holdback" means, at any time (1) prior to completion of the Toscana Apartments, the amount by which the estimated costs to complete the Toscana Apartments (as determined by Administrative Agent) exceeds the budget for such costs submitted to and approved by Administrative Agent pursuant to Section 4.01(13), less the portion, if any, of such excess as Borrower can demonstrate (by reasonably satisfactory evidence) to Administrative Agent that Borrower has already paid (subject, however, to further increase for subsequent budget overruns not paid by Borrower) and (2) after such completion, zero.

"Total Loan Commitment" means an amount equal to the aggregate amount of all Loan Commitments (i.e., \$200,000,000).

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"Total Outstanding Indebtedness" means the sum, without duplication, of (1) Consolidated Outstanding Indebtedness and (2) Borrower's Share of UJV Combined Outstanding Indebtedness.

"UJV Combined Outstanding Indebtedness" means, as of any time, all indebtedness and liability for borrowed money, secured or unsecured, of the UJV's, on a combined basis, including mortgage and other notes payable but excluding any indebtedness which is margin indebtedness on cash and cash equivalent securities, all as reflected in the balance sheets of each of the UJVs, prepared in accordance with GAAP.

"UJVs" means the unconsolidated joint ventures (including general and limited partnerships) in which Borrower owns a beneficial interest and which are accounted for under the equity method in Borrower's Consolidated Financial Statements.

"Unencumbered Combined EBITDA" means that portion of Combined EBITDA attributable to Unencumbered Wholly-Owned Assets (assuming corporate overhead is allocated proportionately to Unencumbered Wholly-Owned Assets).

"Unencumbered Wholly-Owned Assets" means assets, reflected on Borrower's Consolidated Financial Statements, wholly owned, directly or indirectly, by Borrower and not subject to any Lien to secure all or any portion of Secured Indebtedness.

"Unsecured Debt Yield" means, for any calendar quarter, the ratio of (1) Unencumbered Combined EBITDA for such quarter, annualized (I.E., multiplied by four (4)) to (2) Unsecured Indebtedness as of the end of such calendar quarter.

"Unsecured Indebtedness" means that portion of Total Outstanding Indebtedness that is unsecured.

"Unsecured Interest Expense" means that portion of Interest Expense relating to Unsecured Indebtedness.

Section 1.02 ACCOUNTING TERMS. All accounting terms not specifically defined herein shall be construed in accordance with GAAP, and all financial data required to be delivered hereunder shall be prepared in accordance with GAAP.

Section 1.03 COMPUTATION OF TIME PERIODS. Except as otherwise provided herein, in this Agreement, in the computation of periods of time from a

specified date to a later specified date, the word "from" means "from and including" and words "to" and "until" each means "to but excluding".

Section 1.04 RULES OF CONSTRUCTION. Except as provided otherwise, when used in this Agreement (1) "or" is not exclusive; (2) a reference to a Law includes any amendment or modification to such Law; (3) a reference to a Person includes its permitted successors and

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permitted assigns; (4) all references to the singular shall include the plural and vice versa; (5) a reference to an agreement, instrument or document shall include such agreement, instrument or document as the same may be amended, modified or supplemented from time to time in accordance with its terms and as permitted by the Loan Documents; (6) all references to Articles, Sections or Exhibits shall be to Articles, Sections and Exhibits of this Agreement unless otherwise indicated; (7) "hereunder", "herein", "hereof" and the like refer to this Agreement as a whole; and (8) all Exhibits to this Agreement shall be incorporated into this Agreement.

ARTICLE II. THE LOANS

Section 2.01 RATABLE LOANS; BID RATE LOANS; PURPOSE.

(a) Subject to the terms and conditions of this Agreement, the Banks agree to make loans to Borrower as provided in this Article II.

(b) Each of the Banks severally agrees to make a loan to Borrower (each such loan by a Bank, a "Ratable Loan") in an amount up to its Loan Commitment pursuant to which the Bank shall from time to time advance and re-advance to Borrower an amount equal to its Pro Rata Share of the excess (the "Available Total Loan Commitment") of the Adjusted Total Loan Commitment over the sum of (1) all previous advances (including Bid Rate Loans) made by the Banks which remain unpaid and (2) the outstanding amount of all Letters of Credit. Within the limits set forth herein, Borrower may borrow from time to time under this paragraph (b) and prepay from time to time pursuant to Section 2.09 (subject, however, to the restrictions on prepayment set forth in said Section), and thereafter re-borrow pursuant to this paragraph (b). The Ratable Loans may be outstanding as (1) Base Rate Loans; (2) LIBOR Loans; or (3) a combination of the foregoing, as Borrower shall elect and notify Administrative Agent in accordance with Section 2.14. The LIBOR Loan, Bid Rate Loan and Base Rate Loan of each Bank shall be maintained at such Bank's Applicable Lending Office.

(c) In addition to Ratable Loans pursuant to paragraph (b) above, so long as Borrower's Credit Rating is BBB- or better by S&P or Baa3 or better by Moody's (or other agency equivalent, as approved by Administrative Agent in its sole discretion) one or more Banks may, at Borrower's request and in their sole discretion, make non-ratable loans which shall bear interest at the LIBOR Bid Rate in accordance with Section 2.02 (such loans being referred to in this Agreement as "Bid Rate Loans"). Borrower may borrow Bid Rate Loans from time to time pursuant to this paragraph (c) in an amount up to the Available Total Loan Commitment at the time of the borrowing (taking into account any repayments of the Loans made simultaneously therewith) and shall repay such Bid Rate Loans as required by Section 2.08, and it may thereafter re-borrow pursuant to this paragraph (c); PROVIDED, HOWEVER, that the aggregate outstanding principal amount of Bid Rate Loans at any particular time shall not exceed the Bid Borrowing Limit.

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(d) The obligations of the Banks under this Agreement are several, and no Bank shall be responsible for the failure of any other Bank to make any advance of a Loan to be made by such other Bank. However, the failure of any Bank to make any advance of the Loan to be made by it hereunder on the date specified therefor shall not relieve any other Bank of its obligation to make any advance of its Loan specified hereby to be made on such date.

(e) Borrower shall use the proceeds of the Loans for general capital and working capital requirements of Borrower and its Consolidated Businesses and UJVs and for Acquisitions or real estate development, construction or reconstruction costs. In no event shall proceeds of the Loans be used in a manner that would violate Regulation U.

Section 2.02 BID RATE LOANS.

(a) When Borrower has the Borrower's Credit Rating required by Section 2.01(c) and wishes to request offers from the Banks to make Bid Rate Loans, it shall transmit to Administrative Agent by facsimile a request (a "Bid Rate Quote Request") substantially in the form of EXHIBIT G-1 so as to be received not later than 12:00 Noon (New York time) on the fifth Banking Day prior to the date for funding of the Bid Rate Loan(s) proposed therein,

specifying:

- (1) the proposed date of funding of the Bid Rate Loan(s), which shall be a Banking Day;
- (2) the aggregate amount of the Bid Rate Loans requested, which shall be \$10,000,000 or a larger integral multiple of \$1,000,000; and
- (3) the duration of the Interest Period(s) applicable thereto, subject to the provisions of the definition of "Interest Period" in Section 1.01.

Borrower may request offers to make Bid Rate Loans for more than one (1) Interest Period in a single Bid Rate Quote Request. No more than two (2) Bid Rate Quote Requests may be submitted by Borrower during any calendar month; PROVIDED, HOWEVER, that Bid Rate Quote Requests in respect of which no Bank submits a Bid Rate Quote shall not be counted for purposes of the foregoing. In addition, there shall be and no more than twelve (12) fundings of Bid Rate Loans during any calendar year.

(b) Promptly (the same day, if possible) upon receipt of a Bid Rate Quote Request, Administrative Agent shall send to the Banks by facsimile an invitation (an "Invitation for Bid Rate Quotes") substantially in the form of EXHIBIT G-2, which shall constitute an invitation by Borrower to the Banks to submit Bid Rate Quotes offering to make Bid Rate Loans to which such Bid Rate Quote Request relates in accordance with this Section.

(c) (1) Each Bank may submit a Bid Rate Quote containing an offer or offers to make Bid Rate Loans in response to any Invitation for Bid Rate Quotes. Each Bid

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Rate Quote must comply with the requirements of this paragraph (c) and must be submitted to Administrative Agent by facsimile not later than 2:00 P.M. (New York time) on the fourth Banking Day prior to the proposed date of the Bid Rate Loan(s); PROVIDED that Bid Rate Quotes submitted by UBS (or any Affiliate of Administrative Agent) in its capacity as a Bank may be submitted, and may only be submitted, if UBS or such Affiliate notifies Borrower of the terms of the offer or offers contained therein not later than one (1) hour prior to the deadline for the other Banks. Any Bid Rate Quote so made shall (subject to Borrower's satisfaction of the conditions precedent set forth in this Agreement to its entitlement to an advance) be irrevocable except with the written consent of Administrative Agent given on the instructions of Borrower. Bid Rate Loans to be funded pursuant to a Bid Rate Quote may, as provided in Section 12.16, be funded by a Bank's Designated Lender. A Bank making a Bid Rate Quote shall specify in its Bid Rate Quote whether the related Bid Rate Loans are intended to be funded by such Bank's Designated Lender, as provided in Section 12.16.

(2) Each Bid Rate Quote shall be in substantially the form of EXHIBIT G-3 and shall in any case specify:

- (i) the proposed date of funding of the Bid Rate Loan(s);
- (ii) the principal amount of the Bid Rate Loan(s) for which each such offer is being made, which principal amount (w) may be greater than or less than the Loan Commitment of the quoting Bank, (x) must be in the aggregate \$10,000,000 or a larger integral multiple of \$1,000,000, (y) may not exceed the principal amount of Bid Rate Loans for which offers were requested and (z) may be subject to an aggregate limitation as to the principal amount of Bid Rate Loans for which offers being made by such quoting Bank may be accepted;
- (iii) the margin above or below the applicable LIBOR Interest Rate (the "LIBOR Bid Margin") offered for each such Bid Rate Loan, expressed as a percentage per annum (specified to the nearest 1/1,000th of 1%) to be added to (or subtracted from) the applicable LIBOR Interest Rate;
- (iv) the applicable Interest Period; and
- (v) the identity of the quoting Bank.

A Bid Rate Quote may set forth up to three (3) separate offers by the quoting Bank with respect to each Interest Period specified in the related Invitation for Bid Rate Quotes.

(3) Any Bid Rate Quote shall be disregarded if it:

- (i) is not substantially in conformity with EXHIBIT G-3 or does not specify all of the information required by sub-paragraph (c) (2) above;

(ii) contains qualifying, conditional or similar language (except for an aggregate limitation as provided in sub-paragraph (c) (2) (ii) above);

(iii) proposes terms other than or in addition to those set forth in the applicable Invitation for Bid Rate Quotes; or

(iv) arrives after the time set forth in sub-paragraph (c) (1) above.

(d) Administrative Agent shall on the Banking Day of receipt thereof notify Borrower in writing of the terms of (x) any Bid Rate Quote submitted by a Bank that is in accordance with paragraph (c) and (y) any Bid Rate Quote that amends, modifies or is otherwise inconsistent with a previous Bid Rate Quote submitted by such Bank with respect to the same Bid Rate Quote Request. Any such subsequent Bid Rate Quote shall be disregarded by Administrative Agent unless such subsequent Bid Rate Quote is submitted solely to correct a manifest error in such former Bid Rate Quote. Administrative Agent's notice to Borrower shall specify (A) the aggregate principal amount of Bid Rate Loans for which offers have been received for each Interest Period specified in the related Bid Rate Quote Request, (B) the respective principal amounts and LIBOR Bid Margins so offered and (C) if applicable, limitations on the aggregate principal amount of Bid Rate Loans for which offers in any single Bid Rate Quote may be accepted.

(e) Not later than 11:30 p.m. (California time) on the fourth Banking Day prior to the proposed date of funding of the Bid Rate Loan, Borrower shall notify Administrative Agent of its acceptance or non-acceptance of the offers so notified to it pursuant to paragraph (d). A notice of acceptance shall be substantially in the form of EXHIBIT G-4 and shall specify the aggregate principal amount of offers for each Interest Period that are accepted. Borrower may accept any Bid Rate Quote in whole or in part; PROVIDED that:

(i) the principal amount of each Bid Rate Loan may not exceed the applicable amount set forth in the related Bid Rate Quote Request or be less than \$1,000,000 per Bank and shall be an integral multiple of \$100,000;

(ii) acceptance of offers with respect to a particular Interest Period may only be made on the basis of ascending LIBOR Bid Margins offered for such Interest Period from the lowest effective cost; and

(iii) Borrower may not accept any offer that is described in sub-paragraph (c) (3) or that otherwise fails to comply with the requirements of this Agreement.

(f) If offers are made by two (2) or more Banks with the same LIBOR Bid Margins, for a greater aggregate principal amount than the amount in respect of which such offers are accepted for the related Interest Period, the principal amount of Bid Rate Loans in respect of which such offers are accepted shall be allocated by Administrative Agent among

such Banks as nearly as possible (in multiples of \$100,000, as Administrative Agent may deem appropriate) in proportion to the aggregate principal amounts of such offers. Administrative Agent shall promptly (and in any event within one (1) Banking Day after such offers are accepted) notify Borrower and each such Bank in writing of any such allocation of Bid Rate Loans. Determinations by Administrative Agent of the allocation of Bid Rate Loans shall be conclusive in the absence of manifest error. (g) In the event that Borrower accepts the offer(s) contained in one (1) or more Bid Rate Quotes in accordance with paragraph (e), the Bank(s) making such offer(s) shall make a Bid Rate Loan in the accepted amount (as allocated, if necessary, pursuant to paragraph (f)) on the date specified therefor, in accordance with the procedures specified in Section 2.04.

(h) Notwithstanding anything to the contrary contained herein, each Bank shall be required to fund its Pro Rata Share of the Available Total Loan Commitment in accordance with Section 2.01(b) despite the fact that any Bank's Loan Commitment may have been or may be exceeded as a result of such Bank's making Bid Rate Loans.

(i) A Bank who is notified that it has been selected to make a Bid Rate Loan as provided above may designate its Designated Lender (if any) to fund such Bid Rate Loan on its behalf, as described in Section 12.16. Any Designated Lender which funds a Bid Rate Loan shall on and after the time of such funding become the obligee under such Bid Rate Loan and be entitled to receive payment thereof when due. No Bank shall be relieved of its

obligation to fund a Bid Rate Loan, and no Designated Lender shall assume such obligation, prior to the time the applicable Bid Rate Loan is funded.

Section 2.03 ADVANCES, GENERALLY. The Initial Advance shall be in the minimum amount of \$1,000,000 and in integral multiples of \$100,000 above such amount and shall be made upon satisfaction of the conditions set forth in Section 4.01. Subsequent advances shall be made no more frequently than weekly thereafter, upon satisfaction of the conditions set forth in Section 4.02. The amount of each advance subsequent to the Initial Advance shall be in the minimum amount of \$1,000,000 (unless less than \$1,000,000 is available for disbursement pursuant to the terms hereof at the time of any subsequent advance, in which case the amount of such subsequent advance shall be equal to such remaining availability) and in integral multiples of \$100,000 above such amount. Additional restrictions on the amounts and timing of, and conditions to the making of, advances of Bid Rate Loans are set forth in Section 2.02.

Section 2.04 PROCEDURES FOR ADVANCES. In the case of advances of Ratable Loans hereunder, Borrower shall submit to Administrative Agent a request for each advance, stating the amount requested and certifying the purpose, in reasonable detail, for which such advance is to be used, no later than 11:00 a.m. (New York time) on the date, in the case of advances of Base Rate Loans, which is one (1) Banking Day, and, in the case of advances of LIBOR Loans, which is three (3) Banking Days, prior to the date the advance is to be made. In the case of advances of Bid Rate Loans hereunder, Borrower shall submit a Bid Rate Quote

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Request at the time specified in Section 2.02, accompanied by a certification of the purpose for which the advance is to be used. Administrative Agent, upon its receipt and approval of the request for advance, will so notify the Banks either by telephone or by facsimile. Not later than 11:00 a.m. (New York time) on the date of each advance, each Bank (in the case of Ratable Loans) or the applicable Bank(s) (in the case of Bid Rate Loans) shall, through its Applicable Lending Office and subject to the conditions of this Agreement, make the amount to be advanced by it on such day available to Administrative Agent, at Administrative Agent's Office and in immediately available funds for the account of Borrower. The amount so received by Administrative Agent shall, subject to the conditions of this Agreement, be made available to Borrower, in immediately available funds, by Administrative Agent's crediting an account of Borrower designated by Borrower and maintained with Administrative Agent at Administrative Agent's Office.

Section 2.05 INTEREST PERIODS; RENEWALS. In the case of the LIBOR Loans, Borrower shall select an Interest Period of any duration in accordance with the definition of Interest Period in Section 1.01, subject to the following limitations: (1) no Interest Period may extend beyond the Maturity Date; (2) if an Interest Period would end on a day which is not a Banking Day, such Interest Period shall be extended to the next Banking Day, unless such Banking Day would fall in the next calendar month, in which event such Interest Period shall end on the immediately preceding Banking Day; and (3) only seven (7) discrete segments of a Bank's Ratable Loan bearing interest at a LIBOR Interest Rate, for a designated Interest Period, pursuant to a particular Election, Conversion or Continuation, may be outstanding at any one time (each such segment of each Bank's Ratable Loan corresponding to a proportionate segment of each of the other Banks' Ratable Loans).

Upon notice to Administrative Agent as provided in Section 2.14, Borrower may Continue any LIBOR Loan on the last day of the Interest Period of the same or different duration in accordance with the limitations provided above. If Borrower shall fail to give notice to Administrative Agent of such a Continuation, such LIBOR Loan shall automatically become a LIBOR Loan with an Interest Period of one (1) month on the last day of the current Interest Period.

Section 2.06 INTEREST. Borrower shall pay interest to Administrative Agent for the account of the applicable Bank on the outstanding and unpaid principal amount of the Loans, at a rate per annum as follows: (1) for Base Rate Loans at a rate equal to the Base Rate; (2) for LIBOR Loans at a rate equal to the applicable LIBOR Interest Rate plus the Applicable Margin; and (3) for Bid Rate Loans at a rate equal to the applicable LIBOR Bid Rate. Any principal amount not paid when due (when scheduled, at acceleration or otherwise) shall bear interest thereafter, payable on demand, at the Default Rate.

The interest rate on Base Rate Loans shall change when the Base Rate changes. Interest on Base Rate Loans, LIBOR Loans and Bid Rate Loans shall not exceed the maximum amount permitted under applicable law. Interest shall be calculated for the actual number of days

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elapsed on the basis of, in the case of Base Rate Loans, LIBOR Loans and Bid Rate Loans, three hundred sixty (360) days.

Accrued interest shall be due and payable in arrears upon and with respect to any payment or prepayment of principal and, (x) in the case of both Base Rate Loans and LIBOR Loans, on the first Banking Day of each calendar month and (y) in the case of Bid Rate Loans, at the expiration of the Interest Period applicable thereto; PROVIDED, HOWEVER, that interest accruing at the Default Rate shall be due and payable on demand.

Section 2.07 FEES

(a) Borrower agrees to pay to Administrative Agent, for the accounts of the parties specified therein, the fees provided for in the Supplemental Fee Letter.

(b) Borrower shall, during the term of the Loans during periods when Borrower's Credit Rating is below BBB- by S&P or below Baa3 by Moody's or unrated, pay to Administrative Agent for the account of each Bank a commitment fee computed on the daily unused Loan Commitment of such Bank at a rate per annum equal to .15%, calculated on the basis of a year of three hundred sixty (360) days for the actual number of days elapsed. The accrued commitment fee shall be due and payable quarterly in arrears on the tenth (10th) day of August, November, February and May of each year, commencing on the first such date after the Closing Date, and upon the Maturity Date (as stated, by acceleration or otherwise) or earlier termination of the Loan Commitments.

(c) Borrower shall, during the term of the Loans during periods when Borrower's Credit Rating is BBB- or higher by S&P or Baa3 or higher by Moody's, pay to Administrative Agent for the account of each Bank a facility fee computed on the daily Loan Commitment of such Bank (irrespective of usage) at a rate per annum equal to 15%, calculated on the basis of a year of three hundred sixty (360) days for the actual number of days elapsed. The accrued facility fee shall be due and payable quarterly in arrears on the tenth (10th) day of August, November, February and May of each year, commencing on the first such date after the Closing Date, and upon the Maturity Date (as stated, by acceleration or otherwise) or earlier termination of the Loan Commitments.

Section 2.08 NOTES. The Ratable Loan made by each Bank under this Agreement shall be evidenced by, and repaid with interest in accordance with, a single promissory note of Borrower in the form of EXHIBIT B duly completed and executed by Borrower, in the principal amount equal to such Bank's Loan Commitment, payable to such Bank for the account of its Applicable Lending Office (each such note, as the same may hereafter be amended, modified, extended, severed, assigned, renewed or restated from time to time, including any substitute notes pursuant to Section 3.07 or 12.05, a "Ratable Loan Note"). The parties hereto acknowledge that, as of the date hereof, the aggregate outstanding principal amount under the Ratable Loan Notes of all of the Banks is \$33,500,000. The Bid Rate Loans of the Banks shall be evidenced by a single global promissory note of Borrower, in the form of

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EXHIBIT B-1, duly completed and executed by Borrower, in the principal amount of \$175,000,000, payable to Administrative Agent for the account of the respective Banks making Bid Rate Loans (such note, as the same may hereafter be amended, modified, extended, severed, assigned, substituted, renewed or restated from time to time, the "Bid Rate Loan Note"). The parties hereto acknowledge that, as of the date hereof, the aggregate outstanding principal amount under the Bid Rate Loan Note is \$97,500,000, allocated as follows: UBS - \$50,000,000, First Chicago - \$5,000,000, Bank of Montreal - \$15,000,000, CoreStates - \$20,000,000 and Kredietbank - \$7,500,000. A particular Bank's Ratable Loan Note, together with its interest, if any, in the Bid Rate Loan Note, are referred to collectively in this Agreement as such Bank's "Note"; all such Ratable Loan Notes and interests are referred to collectively in this Agreement as the "Notes". The Ratable Loan Notes shall mature, and all outstanding principal and accrued interest and other sums thereunder shall be paid in full, on the Maturity Date, as the same may be accelerated. The outstanding principal amount of each Bid Rate Loan evidenced by the Bid Rate Loan Note, and all accrued interest and other sums with respect thereto, shall become due and payable to the Bank making such Bid Rate Loan at the earlier of the expiration of the Interest Period applicable thereto or the Maturity Date, as the same may be accelerated.

Each Bank is hereby authorized by Borrower to endorse on the schedule attached to the Ratable Loan Note held by it, the amount of each advance and each payment of principal received by such Bank for the account of its Applicable Lending Office(s) on account of its Ratable Loan, which endorsement shall, in the absence of manifest error, be conclusive as to the outstanding balance of the Ratable Loan made by such Bank. Administrative Agent is hereby authorized by Borrower to endorse on the schedule attached to the Bid Rate Loan Note the amount of each Bid Rate Loan, the name of the Bank making the same, the date of the advance thereof, the interest rate applicable thereto and the expiration of the Interest Period applicable thereto (i.e., the maturity date thereof). The failure by Administrative Agent or any Bank to make such notations

with respect to the Loans or each advance or payment shall not limit or otherwise affect the obligations of Borrower under this Agreement or the Notes.

Section 2.09 PREPAYMENTS. Without prepayment premium or penalty but subject to Section 3.05, Borrower may, upon at least one (1) Banking Day's notice to Administrative Agent in the case of the Base Rate Loans, and at least three (3) Banking Days' notice to Administrative Agent in the case of LIBOR Loans, prepay the Ratable Loans, provided that (1) any partial prepayment under this Section shall be in integral multiples of \$1,000,000; (2) a LIBOR Loan may be prepaid only on the last day of the applicable Interest Period for such LIBOR Loan; and (3) each prepayment under this Section shall include all interest accrued on the amount of principal prepaid through the date of prepayment.

Section 2.10 CANCELLATION OF COMMITMENTS.

(a) At any time, Borrower shall have the right, without premium or penalty, to terminate any unused Loan Commitments, in whole or in part, from time to time, provided that: (1) Borrower shall give notice of each such termination to Administrative Agent no later

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then 10:00 a.m. (New York time) on the date which is fifteen (15) Banking Days prior to the effectiveness of such termination; (2) the Loan Commitments of each of the Banks must be terminated ratably and simultaneously with those of the other Banks; and (3) each partial termination of the Loan Commitments as a whole (and corresponding reduction of the Total Loan Commitment) shall be in an integral multiple of \$1,000,000.

(b) The Loan Commitments, to the extent terminated, may not be reinstated.

Section 2.11 METHOD OF PAYMENT. Borrower shall make each payment under this Agreement and under the Notes not later than 11:00 A.M. (New York time) on the date when due in Dollars to Administrative Agent at Administrative Agent's Office in immediately available funds. Administrative Agent will thereafter, on the day of its receipt of each such payment, cause to be distributed to each Bank (1) such Bank's appropriate share (based upon the respective outstanding principal amounts and rate(s) of interest under the Notes of the Banks) of the payments of principal and interest in like funds for the account of such Bank's Applicable Lending Office; and (2) fees payable to such Bank in accordance with the terms of this Agreement. Borrower hereby authorizes Administrative Agent and the Banks, if and to the extent payment by Borrower is not made when due under this Agreement or under the Notes, to charge from time to time against any account Borrower maintains with Administrative Agent or any Bank any amount so due to Administrative Agent and/or the Banks.

Except to the extent provided in this Agreement, whenever any payment to be made under this Agreement or under the Notes is due on any day other than a Banking Day, such payment shall be made on the next succeeding Banking Day, and such extension of time shall in such case be included in the computation of the payment of interest and other fees, as the case may be.

Section 2.12 ELECTIONS, CONVERSIONS OR CONTINUATION OF LOANS. Subject to the provisions of Article III and Sections 2.05 and 2.13, Borrower shall have the right to Elect to have all or a portion of any advance of the Ratable Loans be LIBOR Loans, to Convert Base Rate Loans into LIBOR Loans, to Convert LIBOR Loans into Base Rate Loans, or to Continue LIBOR Loans as LIBOR Loans, at any time or from time to time, provided that (1) Borrower shall give Administrative Agent notice of each such Election, Conversion or Continuation as provided in Section 2.14; and (2) a LIBOR Loan may be Converted or Continued only on the last day of the applicable Interest Period for such LIBOR Loan. Except as otherwise provided in this Agreement, each Election, Continuation and Conversion shall be applicable to each Bank's Ratable Loan in accordance with its Pro Rata Share.

Section 2.13 MINIMUM AMOUNTS. With respect to the Ratable Loans as a whole, each Election and each Conversion shall be in an amount at least equal to \$1,000,000 and in integral multiples of \$100,000.

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Section 2.14 CERTAIN NOTICES REGARDING ELECTIONS, CONVERSIONS AND CONTINUATIONS OF LOANS. Notices by Borrower to Administrative Agent of Elections, Conversions and Continuations of LIBOR Loans shall be irrevocable and shall be effective only if received by Administrative Agent not later than 10:00 a.m. (New York time) on the number of Banking Days prior to the date of the relevant Election, Conversion or Continuation specified below:

NOTICE

NUMBER OF BANKING DAYS PRIOR

Conversions into Base Rate Loans

two (2)

Elections of, Conversions into or
Continuations as, LIBOR Loans

three (3)

Promptly following its receipt of any such notice, Administrative Agent shall so advise the Banks either by telephone or by facsimile. Each such notice of Election shall specify the portion of the amount of the advance that is to be LIBOR Loans (subject to Section 2.13) and the duration of the Interest Period applicable thereto (subject to Section 2.05); each such notice of Conversion shall specify the LIBOR Loans or Base Rate Loans to be Converted; and each such notice of Conversion or Continuation shall specify the date of Conversion or Continuation (which shall be a Banking Day), the amount thereof (subject to Section 2.13) and the duration of the Interest Period applicable thereto (subject to Section 2.05). In the event that Borrower fails to Elect to have any portion of an advance of the Ratable Loans be LIBOR Loans, the entire amount of such advance shall constitute Base Rate Loans. In the event that Borrower fails to Continue LIBOR Loans within the time period and as otherwise provided in this Section, such LIBOR Loans will automatically become LIBOR Loans with an Interest Period of one (1) month on the last day of the then current applicable Interest Period for such LIBOR Loans.

Section 2.15 LATE PAYMENT PREMIUM. Borrower shall, at Administrative Agent's option, pay to Administrative Agent for the account of the Banks a late payment premium in the amount of 4% of any payments of interest under the Loans made more than ten (10) days after the due date thereof, which shall be due with any such late payment.

Section 2.16 LETTERS OF CREDIT.

(a) Borrower, by notice to Administrative Agent, may request, in lieu of advances of proceeds of the Ratable Loans, that Administrative Agent issue unconditional, irrevocable standby letters of credit (each, a "Letter of Credit") for the account of Borrower, payable by sight drafts, for such beneficiaries and with such other terms as Borrower shall specify. Promptly upon issuance of a Letter of Credit, Administrative Agent shall notify each of the Banks.

(b) The amount of any Letter of Credit shall be limited to the lesser of (x) \$50,000,000 less the aggregate amount of all Letters of Credit theretofore issued or (y) the

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Available Total Loan Commitment, it being understood that the amount of each Letter of Credit issued and outstanding shall (1) effect a reduction, by an equal amount, of the Available Total Loan Commitment (such reduction to be allocated to each Bank's Ratable Loan ratably in accordance with the Banks' respective Pro Rata Shares) and (2) be treated as advanced as of the date of issuance of the Letter of Credit for purposes of calculating the commitment fee under clause (1) of Section 2.07(b).

(c) The amount of each Letter of Credit shall be further subject to the limitations applicable to amounts of advances set forth in Section 2.03 and the procedures for the issuance of each Letter of Credit shall be the same as the procedures applicable to the making of advances as set forth in the first sentence of Section 2.04. Administrative Agent's issuance of each Letter of Credit shall be subject to Administrative Agent's determination that Borrower has satisfied all conditions precedent to its entitlement to an advance of proceeds of the Loans.

(d) Each Letter of Credit shall expire no later than one (1) month prior to the Maturity Date.

(e) In connection with, and as a further condition to the issuance of, each Letter of Credit, Borrower shall execute and deliver to Administrative Agent an application for the Letter of Credit on Administrative Agent's standard form therefor, together with such other documents, opinions and assurances as Administrative Agent shall reasonably require.

(f) In connection with each Letter of Credit, Borrower hereby covenants to pay to Administrative Agent the following fees each payable quarterly in arrears (on the first Banking Day of each calendar quarter following the issuance of the Letter of Credit): (1) a fee for the account of the Banks, computed daily on the amount of the Letter of Credit issued and outstanding at a rate per annum equal to the "Banks' L/C Fee Rate" (as hereinafter defined) and (2) a fee, for Administrative Agent's own account, computed daily on the amount of the Letter of Credit issued and outstanding at a rate per annum equal to 0.125%. For purposes of this Agreement, the "Banks' L/C Fee Rate" shall mean, at any time, a rate per annum equal to the Applicable Margin less 0.125% per annum. It is understood and agreed that the last installment of the fees provided for in this paragraph (f) with respect to any particular Letter of Credit shall be due and payable on

the first day of the calendar quarter following the return, undrawn, or cancellation of such Letter of Credit.

(g) The parties hereto acknowledge and agree that, immediately upon notice from Administrative Agent of any drawing under a Letter of Credit, each Bank shall, notwithstanding the existence of a Default or Event of Default or the non-satisfaction of any conditions precedent to the making of an advance of the Loans, advance proceeds of its Ratable Loan, in an amount equal to its Pro Rata Share of such drawing, which advance shall be made to Administrative Agent to reimburse Administrative Agent, for its own account, for such drawing. Each of the Banks further acknowledges that its obligation to fund its Pro Rata Share

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of drawings under Letters of Credit as aforesaid shall survive the Banks' termination of this Agreement or enforcement of remedies hereunder or under the other Loan Documents.

(h) Borrower agrees, upon the occurrence of an Event of Default and at the written request of Administrative Agent, (1) to deposit with Administrative Agent cash collateral in the amount of all the outstanding Letters of Credit, which cash collateral shall be held by Administrative Agent as security for Borrower's obligations in connection with the Letters of Credit and (2) to execute and deliver to Administrative Agent such documents as Administrative Agent reasonably requests to confirm and perfect the assignment of such cash collateral to Administrative Agent.

The parties hereto acknowledge that, as of the date hereof, the only outstanding Letter of Credit which has been issued pursuant to this Section is that certain \$1,000,000 Letter of Credit (No. SBY 505309) dated September 15, 1997 issued by Administrative Agent in favor of Avondale Bear Creek Limited Partnership.

Section 2.17 SPECIAL PROVISIONS REGARDING ADVANCES IN CONNECTION WITH ACQUISITIONS. In the case of each advance relating to an Acquisition, adjustments shall be made with respect to determinations of compliance with the covenants contained in Article VIII, all as set forth in this Section, and the making of the advance shall be subject, in addition to the limitations and conditions applicable to advances of the Loans generally, to the satisfaction of the conditions set forth in this Section. As conditions to each advance relating to an Acquisition, Borrower shall be required to submit to Administrative Agent, no later than five (5) Banking Days prior to the date such advance is to be made: (1) a certificate, from the officer of Borrower specified in paragraph (3) of Section 6.09, containing (x) a computation of the Adjusted Total Loan Commitment as specified in clause (b) of said paragraph (3) and (y) covenant compliance calculations as specified in clause (c) of said paragraph (3), except including, in each case, the pro-forma adjustments described below, which certificate shall (a) indicate that the outstanding principal amount under the Notes, together with the amount of the requested advance, does not exceed the Adjusted Total Loan Commitment and (b) demonstrate Borrower's compliance, as of the end of the most recently ended calendar quarter for which financial results are required under Section 6.09 to have been reported by Borrower (the "Reference Date"), with all covenants enumerated in said clause (c) of said paragraph (3) and (2) a certificate by the same officer setting forth the income projected to be generated from such Acquisition for purposes of determining Combined EBITDA and the type of income so generated.

In connection with each advance of Loan proceeds relating to an Acquisition, the following pro-forma adjustments shall be made to the Adjusted Total Loan Commitment and covenant compliance calculations:

(i) Total Outstanding Indebtedness shall be adjusted by adding thereto all indebtedness that is assumed or incurred by Borrower in connection with the Acquisition (and any other Acquisition since the Reference Date);

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(ii) Combined EBITDA, for the relevant period(s), shall be adjusted by adding thereto (or subtracting therefrom, in the case of a loss) actual revenues less operating costs before interest expense, income taxes, depreciation, amortization and extraordinary items, for the same period(s), from the acquired property (and any other property acquired since the Reference Date);

(iii) If, upon its Acquisition, the acquired property would become (or any other property acquired since the Reference Date shall have become) part of Unencumbered Wholly-Owned Assets, Unencumbered Combined EBITDA, for the relevant period(s), shall be adjusted by adding thereto (or subtracting therefrom, in the case of a loss) actual income before interest expense, income taxes, depreciation, amortization and extraordinary items, for the same period(s), from the acquired property (and such other acquired property); and

(iv) Interest Expense, Unsecured Interest Expense and Combined Debt Service for the relevant period(s), shall be adjusted by adding thereto interest expense incurred on, respectively, all indebtedness and unsecured indebtedness that is assumed and/or incurred by Borrower in connection with the Acquisition (and any other property acquired since the Reference Date), assuming, for purposes of this calculation, that such indebtedness were to bear interest for the entire relevant period(s) at a rate per annum equal to (x) the LIBOR Interest Rate, plus the Applicable Margin, then in effect hereunder or (y) if there is no LIBOR Interest Rate then in effect hereunder, the LIBOR Interest Rate for an Interest Period of one (1) month, plus the Applicable Margin that would then apply if a LIBOR Interest Rate was in effect hereunder, as of the date of the Acquisition and would be amortized over a twenty-five (25)-year period.

ARTICLE III. YIELD PROTECTION; ILLEGALITY, ETC.

Section 3.01 ADDITIONAL COSTS. Borrower shall pay directly to each Bank from time to time on demand such amounts as such Bank may determine to be necessary to compensate it for any increased costs which such Bank determines are attributable to its making or maintaining a LIBOR Loan or a Bid Rate Loan, or its obligation to make or maintain a LIBOR Loan or a Bid Rate Loan, or its obligation to Convert a Base Rate Loan to a LIBOR Loan hereunder, or any reduction in any amount receivable by such Bank hereunder in respect of its LIBOR Loan or Bid Rate Loan(s) or such obligations (such increases in costs and reductions in amounts receivable being herein called "Additional Costs"), in each case resulting from any Regulatory Change which:

(1) changes the basis of taxation of any amounts payable to such Bank under this Agreement or the Notes in respect of any such LIBOR Loan or Bid Rate Loan (other than changes in the rate of general corporate, franchise, branch profit, net income or other income tax imposed on such Bank or its Applicable Lending Office by the jurisdiction in which such Bank has its principal office or such Applicable Lending Office); or

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(2) (other than to the extent the LIBOR Reserve Requirement is taken into account in determining the LIBOR Rate at the commencement of the applicable Interest Period) imposes or modifies any reserve, special deposit, deposit insurance or assessment, minimum capital, capital ratio or similar requirements relating to any extensions of credit or other assets of, or any deposits with or other liabilities of, such Bank (including any LIBOR Loan or Bid Rate Loan or any deposits referred to in the definition of "LIBOR Interest Rate" in Section E1.01), or any commitment of such Bank (including such Bank's Loan Commitment hereunder); or

(3) imposes any other condition affecting this Agreement or the Notes (or any of such extensions of credit or liabilities). Without limiting the effect of the provisions of the first paragraph of this Section, in the event that, by reason of any Regulatory Change, any Bank either (1) incurs Additional Costs based on or measured by the excess above a specified level of the amount of a category of deposits or other liabilities of such Bank which includes deposits by reference to which the LIBOR Interest Rate is determined as provided in this Agreement or a category of extensions of credit or other assets of such Bank which includes loans based on the LIBOR Interest Rate or (2) becomes subject to restrictions on the amount of such a category of liabilities or assets which it may hold, then, if such Bank so elects by notice to Borrower (with a copy to Administrative Agent), the obligation of such Bank to permit Elections of, to Continue, or to Convert Base Rate Loans into, LIBOR Loans shall be suspended (in which case the provisions of Section 3.04 shall be applicable) until such Regulatory Change ceases to be in effect.

Determinations and allocations by a Bank for purposes of this Section of the effect of any Regulatory Change pursuant to the first or second paragraph of this Section, on its costs or rate of return of making or maintaining its Loan or portions thereof or on amounts receivable by it in respect of its Loan or portions thereof, and the amounts required to compensate such Bank under this Section, shall be included in a calculation of such amounts given to Borrower and shall be conclusive absent manifest error.

Section 3.02 LIMITATION ON TYPES OF LOANS. Anything herein to the contrary notwithstanding, if, on or prior to the determination of the LIBOR Interest Rate for any Interest Period:

(1) Administrative Agent reasonably determines (which determination shall be conclusive) that quotations of interest rates for the relevant deposits referred to in the definition of "LIBOR Interest Rate" in Section 1.01 are not being provided in the relevant amounts or for the relevant maturities for purposes of determining rates of interest for the LIBOR Loans or Bid Rate Loans as provided in this Agreement; or

(2) a Bank reasonably determines (which determination shall be conclusive) and promptly notifies Administrative Agent that the relevant rates of interest referred to in the definition of "LIBOR Interest Rate" in Section 1.01 upon the basis of which

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the rate of interest for LIBOR Loans or Bid Rate Loans for such Interest Period is to be determined do not adequately cover the cost to such Bank of making or maintaining such LIBOR Loan or Bid Rate Loan for such Interest Period;

then Administrative Agent shall give Borrower prompt notice thereof, and so long as such condition remains in effect, the Banks (or, in the case of the circumstances described in clause (2) above, the affected Bank) shall be under no obligation to permit Elections of LIBOR Loans, to Convert Base Rate Loans into LIBOR Loans or to Continue LIBOR Loans and Borrower shall, on the last day(s) of the then current Interest Period(s) for the affected outstanding LIBOR Loans or Bid Rate Loans, either (x) prepay the affected LIBOR Loans or Bid Rate Loans or (y) Convert the affected LIBOR Loans into Base Rate Loans in accordance with Section 2.12 or convert the rate of interest under the affected Bid Rate Loans to the rate applicable to Base Rate Loans by following the same procedures as are applicable for Conversions into Base Rate Loans set forth in Section 2.12.

Section 3.03 ILLEGALITY. Notwithstanding any other provision of this Agreement, in the event that it becomes unlawful for any Bank or its Applicable Lending Office to honor its obligation to make or maintain a LIBOR Loan or Bid Rate Loan hereunder, to allow Elections of a LIBOR Loan or to Convert a Base Rate Loan into a LIBOR Loan, then such Bank shall promptly notify Administrative Agent and Borrower thereof and such Bank's obligation to make or maintain a LIBOR Loan or Bid Rate Loan, or to permit Elections of, to Continue, or to Convert its Base Rate Loan into, a LIBOR Loan shall be suspended (in which case the provisions of Section 3.04 shall be applicable) until such time as such Bank may again make and maintain a LIBOR Loan or a Bid Rate Loan.

Section 3.04 TREATMENT OF AFFECTED LOANS. If the obligations of any Bank to make or maintain a LIBOR Loan or a Bid Rate Loan, or to permit an Election of a LIBOR Loan, to Continue its LIBOR Loan, or to Convert its Base Rate Loan into a LIBOR Loan, are suspended pursuant to Sections 3.01 or 3.03 (each LIBOR Loan or Bid Rate Loan so affected being herein called an "Affected Loan"), such Bank's Affected Loan shall be automatically Converted into a Base Rate Loan (or, in the case of an Affected Loan that is a Bid Rate Loan, the interest rate thereon shall be converted to the rate applicable to Base Rate Loans) on the last day of the then current Interest Period for the Affected Loan (or, in the case of a Conversion (or conversion) required by Sections 3.01 or 3.03, on such earlier date as such Bank may specify to Borrower).

To the extent that such Bank's Affected Loan has been so Converted (or the interest rate thereon so converted), all payments and prepayments of principal which would otherwise be applied to such Bank's Affected Loan shall be applied instead to its Base Rate Loan (or to its Bid Rate Loan bearing interest at the converted rate) and such Bank shall have no obligation to Convert its Base Rate Loan into a LIBOR Loan.

Section 3.05 CERTAIN COMPENSATION. Other than in connection with a Conversion of an Affected Loan, Borrower shall pay to Administrative Agent for the account of the

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applicable Bank, upon the request of such Bank through Administrative Agent which request includes a calculation of the amount(s) due, such amount or amounts as shall be sufficient (in the reasonable opinion of such Bank) to compensate it for any loss, cost or expense which such Bank reasonably determines is attributable to:

(1) any payment or prepayment of a LIBOR Loan or Bid Rate Loan made by such Bank, or any Conversion or Continuation of a LIBOR Loan made by such Bank, in any such case on a date other than the last day of an applicable Interest Period, whether by reason of acceleration or otherwise; or

(2) any failure by Borrower for any reason to Convert or Continue a LIBOR Loan to be Converted or Continued by such Bank on the date specified therefor in the relevant notice under Section 2.14; or

(3) any failure by Borrower to borrow (or to qualify for a borrowing of) a LIBOR Loan or Bid Rate Loan which would otherwise be made hereunder on the date specified in the relevant Election notice under Section 2.14 or Bid Rate Quote acceptance under Section 2.02(e) given or submitted by Borrower.

Without limiting the foregoing, such compensation shall include an amount equal to the present value (using as the discount rate an interest rate equal to the rate determined under (2) below) of the excess, if any, of (1) the amount of interest which otherwise would have accrued on the principal amount so paid, prepaid, Converted or Continued (or not Converted, Continued or borrowed) for the period from the date of such payment, prepayment, Conversion or Continuation (or failure to Convert, Continue or borrow) to the last day of the then current applicable Interest Period (or, in the case of a failure to Convert, Continue or borrow, to the last day of the applicable Interest Period which would have commenced on the date specified therefor in the relevant notice) at the applicable rate of interest for the LIBOR Loan or Bid Rate Loan provided for herein, over (2) the amount of interest (as reasonably determined by such Bank) based upon the interest rate which such Bank would have bid in the London interbank market for Dollar deposits, for amounts comparable to such principal amount and maturities comparable to such period. A determination of any Bank as to the amounts payable pursuant to this Section shall be conclusive absent manifest error.

Section 3.06 CAPITAL ADEQUACY. If any Bank shall have determined that, after the date hereof, the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on capital of such Bank (or its Parent) as a consequence of such Bank's obligations hereunder to a level below that which such Bank (or its Parent) could have achieved but for such adoption, change, request or directive (taking into consideration its policies with respect to capital adequacy) by an amount

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deemed by such Bank to be material, then from time to time, within fifteen (15) days after demand by such Bank (with a copy to Administrative Agent), Borrower shall pay to such Bank such additional amount or amounts as will compensate such Bank (or its Parent) for such reduction. A certificate of any Bank claiming compensation under this Section, setting forth in reasonable detail the basis therefor, shall be conclusive absent manifest error.

Section 3.07 SUBSTITUTION OF BANKS. If any Bank (an "Affected Bank") (1) makes demand upon Borrower for (or if Borrower is otherwise required to pay) Additional Costs pursuant to Section 3.01 or (2) is unable to make or maintain a LIBOR Loan or Bid Rate Loan as a result of a condition described in Section 3.03 or clause (2) of Section 3.02, Borrower may, within ninety (90) days of receipt of such demand or notice (or the occurrence of such other event causing Borrower to be required to pay Additional Costs or causing said Section 3.03 or clause (2) of Section 3.02 to be applicable), as the case may be, give written notice (a "Replacement Notice") to Administrative Agent and to each Bank of Borrower's intention either (x) to prepay in full the Affected Bank's Note and to terminate the Affected Bank's entire Loan Commitment or (y) to replace the Affected Bank with another financial institution (the "Replacement Bank") designated in such Replacement Notice.

In the event Borrower opts to give the notice provided for in clause (x) above, and if the Affected Bank shall not agree within thirty (30) days of its receipt thereof to waive the payment of the Additional Costs in question or the effect of the circumstances described in Section 3.03 or clause (2) of Section 3.02, then, so long as no Default or Event of Default shall exist, Borrower may (notwithstanding the provisions of clause (2) of Section 2.10(a)) terminate the Affected Bank's entire Loan Commitment, provided that in connection therewith it pays to the Affected Bank all outstanding principal and accrued and unpaid interest under the Affected Bank's Note, together with all other amounts, if any, due from Borrower to the Affected Bank, including all amounts properly demanded and unreimbursed under Sections 3.01 and 3.05.

In the event Borrower opts to give the notice provided for in clause (y) above, and if (i) Administrative Agent shall, within thirty (30) days of its receipt of the Replacement Notice, notify Borrower and each Bank in writing that the Replacement Bank is reasonably satisfactory to Administrative Agent and (ii) the Affected Bank shall not, prior to the end of such thirty (30)-day period, agree to waive the payment of the Additional Costs in question or the effect of the circumstances described in Section 3.03 or clause (2) of Section 3.02, then the Affected Bank shall, so long as no Default or Event of Default shall exist, assign its Note and all of its rights and obligations under this Agreement to the Replacement Bank, and the Replacement Bank shall assume all of the Affected Bank's rights and obligations, pursuant to an agreement, substantially in the form of an Assignment and Assumption Agreement, executed by the Affected Bank and the Replacement Bank. In connection with such assignment and assumption, the Replacement Bank shall pay to the Affected Bank an amount equal to the outstanding principal amount under the Affected Bank's Note plus all interest accrued thereon, plus all other amounts, if any (other than the Additional Costs in question), then due and payable to the Affected Bank; provided, however, that prior to or simultaneously with any

such assignment and assumption, Borrower shall have paid to such Affected Bank all amounts properly demanded and unreimbursed under Sections 3.01 and 3.05. Upon the effective date of such assignment and assumption, the Replacement Bank shall become a Bank Party to this Agreement and shall have all the rights and obligations of a Bank as set forth in such Assignment and Assumption Agreement, and the Affected Bank shall be released from its obligations hereunder, and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this Section, a substitute Ratable Loan Note shall be issued to the Replacement Bank by Borrower, in exchange for the return of the Affected Bank's Ratable Loan Note. The obligations evidenced by such substitute note shall constitute "Obligations" for all purposes of this Agreement and the other Loan Documents. In connection with Borrower's execution of substitute notes as aforesaid, Borrower shall deliver to Administrative Agent evidence, satisfactory to Administrative Agent, of all requisite corporate action to authorize Borrower's execution and delivery of the substitute notes and any related documents. If the Replacement Bank is not incorporated under the laws of the United States of America or a state thereof, it shall, prior to the first date on which interest or fees are payable hereunder for its account, deliver to Borrower and Administrative Agent certification as to exemption from deduction or withholding of any United States federal income taxes in accordance with Section 10.13. Each Replacement Bank shall be deemed to have made the representations contained in, and shall be bound by the provisions of, Section 10.13.

Borrower, Administrative Agent and the Banks shall execute such modifications to the Loan Documents as shall be reasonably required in connection with and to effectuate the foregoing.

Section 3.08 APPLICABILITY. The provisions of this Article III shall be applied to Borrower so as not to discriminate against Borrower vis-a-vis similarly situated customers of the Banks.

ARTICLE IV. CONDITIONS PRECEDENT

Section 4.01 CONDITIONS PRECEDENT TO THE INITIAL ADVANCE. The obligations of the Banks hereunder and the obligation of each Bank to make the Initial Advance are subject to the condition precedent that Co-Agents shall have received and approved on or before the Closing Date (other than with respect to paragraph (10) below which shall be required prior to the Initial Advance) each of the following documents, and each of the following requirements shall have been fulfilled:

(1) FEES AND EXPENSES. The payment of (A) all fees and expenses incurred by Co-Agents and Administrative Agent (including, without limitation, the reasonable fees and expenses of legal counsel); and (B) those fees specified in the Supplemental Fee Letter to be paid by Borrower on or before the Closing Date;

(2) NOTES. The Ratable Loan Notes for UBS, UBC and each of the other Banks signatory hereto and the Bid Rate Loan Note for UBS, as Administrative Agent,

each duly executed by Borrower (each of which Notes shall be substituted for and in lieu of the Notes executed and delivered by Borrower to the Banks and Administrative Agent, respectively, on July 2, 1997 pursuant to the Prior Credit Agreement);

(3) FINANCIALS OF BORROWER. Audited Borrower's Consolidated Financial Statements as of and for the year ended December 31, 1996;

(4) EVIDENCE OF FORMATION OF BORROWER. Certified (as of the Closing Date) copies of Borrower's certificate of incorporation and by-laws, with all amendments thereto, and a certificate of the Secretary of State of the jurisdiction of formation as to its good standing therein;

(5) EVIDENCE OF ALL CORPORATE ACTION. Certified (as of the Closing Date) copies of all documents evidencing the corporate action taken by Borrower authorizing the execution, delivery and performance of the Loan Documents and each other document to be delivered by or on behalf of Borrower pursuant to this Agreement;

(6) INCUMBENCY AND SIGNATURE CERTIFICATE OF BORROWER. A certificate (dated as of the Closing Date) of the secretary of Borrower certifying the names and true signatures of each person authorized to sign on behalf of Borrower;

(7) SOLVENCY CERTIFICATE. A duly executed Solvency Certificate;

(8) OPINION OF COUNSEL FOR BORROWER. A favorable opinion, dated the Closing Date, of Goodwin, Procter & Hoar, counsel for Borrower, as to such matters as Administrative Agent may reasonably request;

(9) AUTHORIZATION LETTER. The Authorization Letter, duly executed by Borrower;

(10) REQUEST FOR ADVANCE. A request for an advance in accordance with Section 2.04;

(11) CERTIFICATE. The following statements shall be true and Administrative Agent shall have received a certificate dated the Closing Date signed by a duly authorized signatory of Borrower stating, to the best of the certifying party's knowledge, the following:

(a) All representations and warranties contained in this Agreement and in each of the other Loan Documents are true and correct on and as of the Closing Date as though made on and as of such date, and

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(b) No Default or Event of Default has occurred and is continuing, or could result from the transactions contemplated by this Agreement and the other Loan Documents;

(12) SUPPLEMENTAL FEE LETTER. The Supplemental Fee Letter, duly executed by Borrower;

(13) TOSCANA APARTMENTS. A complete project budget regarding the construction of the Toscana Apartments;

(14) COVENANT COMPLIANCE. A covenant compliance certificate of the sort required by paragraph (3) of Section 6.09; and

(15) ADDITIONAL MATERIALS. Such other approvals, documents, instruments or opinions as Administrative Agent or either Co-Agent may reasonably request.

Section 4.02 CONDITIONS PRECEDENT TO ADVANCES AFTER THE INITIAL ADVANCE. The obligation of each Bank to make advances of the Loans subsequent to the Initial Advance shall be subject to satisfaction of the following conditions precedent:

(1) All conditions of Section 4.01 shall have been and remain satisfied as of the date of the advance;

(2) No Default or Event of Default shall have occurred and be continuing as of the date of the advance;

(3) Each of the representations and warranties contained in this Agreement and in each of the other Loan Documents shall be true and correct as of the date of the advance;

(4) Administrative Agent shall have received a request for an advance in accordance with Section 2.04; and

(5) In the case of each advance in connection with an Acquisition, the conditions set forth in Section 2.17 shall have been satisfied.

Section 4.03 DEEMED REPRESENTATIONS. Each request by Borrower for, and acceptance by Borrower of, an advance of proceeds of the Loans shall constitute a representation and warranty by Borrower that, as of both the date of such request and the date of the advance (1) no Default or Event of Default has occurred and is continuing and (2) each representation or warranty contained in this Agreement or the other Loan Documents is true and correct in all material respects.

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ARTICLE V. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Administrative Agent and each Bank as follows:

Section 5.01 DUE ORGANIZATION. Borrower is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has the power and authority to own its assets and to transact the business in which it is now engaged, and, if applicable, is duly qualified for the conduct of business and in good standing under the laws of each other jurisdiction in which such qualification is required and where the failure to be so qualified would

cause a Material Adverse Change.

Section 5.02 POWER AND AUTHORITY; NO CONFLICTS; COMPLIANCE WITH LAWS. The execution, delivery and performance of the obligations required to be performed by Borrower of the Loan Documents does not and will not (a) require the consent or approval of its shareholders or such consent or approval has been obtained, (b) contravene either its certificate of incorporation or by-laws, (c) to the best of Borrower's knowledge, violate any provision of, or require any filing, registration, consent or approval under, any Law (including, without limitation, Regulation U), order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to it, (d) result in a breach of or constitute a default under or require any consent under any indenture or loan or credit agreement or any other agreement, lease or instrument to which it may be a party or by which it or its properties may be bound or affected except for consents which have been obtained, (e) result in, or require, the creation or imposition of any Lien, upon or with respect to any of its properties now owned or hereafter acquired, or (f) to the best of Borrower's knowledge, cause it to be in default under any such Law, order, writ, judgment, injunction, decree, determination or award or any such indenture, agreement, lease or instrument; to the best of its knowledge, Borrower is in material compliance with all Laws applicable to it and its properties.

Section 5.03 LEGALLY ENFORCEABLE AGREEMENTS. Each Loan Document is a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally.

Section 5.04 LITIGATION. There are no actions, suits or proceedings pending or, to its knowledge, threatened against Borrower or any of its Affiliates before any court or arbitrator or any Governmental Authority which are reasonably likely to result in a Material Adverse Change.

Section 5.05 GOOD TITLE TO PROPERTIES. Borrower and each of its Material Affiliates have good, marketable and legal title to all of the properties and assets each of them purports to own (including, without limitation, those reflected in the December 31, 1996 financial statements referred to in Section 5.13), only with exceptions which do not materially detract from the value of such property or assets or the use thereof in Borrower's and such Material Affiliate's business, and except to the extent that any such properties and assets have been

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encumbered or disposed of since the date of such financial statements without violating any of the covenants contained in Article VII or elsewhere in this Agreement. Borrower and its Material Affiliates enjoy peaceful and undisturbed possession of all leased property necessary in any material respect in the conduct of their respective businesses. All such leases are valid and subsisting and are in full force and effect.

Section 5.06 TAXES. Borrower has filed all tax returns (federal, state and local) required to be filed and has paid all taxes, assessments and governmental charges and levies due and payable without the imposition of a penalty, including interest and penalties, except to the extent they are the subject of a Good Faith Contest.

Section 5.07 ERISA. Borrower is in compliance in all material respects with all applicable provisions of ERISA. Neither a Reportable Event nor a Prohibited Transaction has occurred with respect to any Plan which could result in liability of Borrower; no notice of intent to terminate a Plan has been filed nor has any Plan been terminated within the past five (5) years; no circumstance exists which constitutes grounds under Section 4042 of ERISA entitling the PBGC to institute proceedings to terminate, or appoint a trustee to administer, a Plan, nor has the PBGC instituted any such proceedings; Borrower and the ERISA Affiliates have not completely or partially withdrawn under Sections 4201 or 4204 of ERISA from a Multiemployer Plan; Borrower and the ERISA Affiliates have met the minimum funding requirements of Section 412 of the Code and Section 302 of ERISA of each with respect to the Plans of each and there is no material "Unfunded Current Liability" (as such quoted term is defined in ERISA) with respect to any Plan established or maintained by each; and Borrower and the ERISA Affiliates have not incurred any liability to the PBGC under ERISA (other than for the payment of premiums under Section 4007 of ERISA). No part of the funds to be used by Borrower in satisfaction of its obligations under this Agreement constitute "plan assets" of any "employee benefit plan" within the meaning of ERISA or of any "plan" within the meaning of Section 4975(e)(1) of the Code, as interpreted by the Internal Revenue Service and the U.S. Department of Labor in rules, regulations, releases, bulletins or as interpreted under applicable case law.

Section 5.08 NO DEFAULT ON OUTSTANDING JUDGMENTS OR ORDERS. Borrower and each of its Material Affiliates have satisfied all judgments which are not being appealed or which are not fully covered by insurance, and are not in default with respect to any judgment, order, writ, injunction, decree, rule or

regulation of any court, arbitrator or federal, state, municipal or other Governmental Authority, commission, board, bureau, agency or instrumentality, domestic or foreign.

Section 5.09 NO DEFAULTS ON OTHER AGREEMENTS. Except as disclosed to Co-Agents and Administrative Agent in writing, Borrower is not a party to any indenture, loan or credit agreement or any lease or other agreement or instrument or subject to any partnership, trust or other restriction which is likely to result in a Material Adverse Change. Borrower is not in default in any respect in the performance, observance or fulfillment of any of the obligations,

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covenants or conditions contained in any agreement or instrument which is likely to result in a Material Adverse Change.

Section 5.10 GOVERNMENT REGULATION. Borrower is not subject to regulation under the Investment Company Act of 1940 or any statute or regulation limiting its ability to incur indebtedness for money borrowed as contemplated hereby.

Section 5.11 ENVIRONMENTAL PROTECTION. To the best of Borrower's knowledge, none of Borrower's or its Material Affiliates' properties contains any Hazardous Materials that, under any Environmental Law currently in effect, (1) would impose liability on Borrower that is likely to result in a Material Adverse Change, or (2) is likely to result in the imposition of a Lien on any assets of Borrower or its Material Affiliates, in each case if not properly handled in accordance with applicable Law. To the best of Borrower's knowledge, neither it nor any of its Material Affiliates is in material violation of, or subject to any existing, pending or threatened material investigation or proceeding by any Governmental Authority under any Environmental Law.

Section 5.12 SOLVENCY. Borrower is, and upon consummation of the transactions contemplated by this Agreement, the other Loan Documents and any other documents, instruments or agreements relating thereto, will be, Solvent.

Section 5.13 FINANCIAL STATEMENTS. Borrower's Consolidated Financial Statements most recently delivered to the Banks pursuant to the terms of this Agreement are in all material respects complete and correct and fairly present the financial condition of the subjects thereof as of the dates of and for the periods covered by such statements, all in accordance with GAAP. There has been no Material Adverse Change since the date of such most recently delivered Borrower's Consolidated Financial Statements.

Section 5.14 VALID EXISTENCE OF AFFILIATES. At the Closing Date, the only Material Affiliates of Borrower are listed on EXHIBIT C. Each Material Affiliate is a corporation duly organized and existing in good standing under the laws of the jurisdiction of its formation. As to each Material Affiliate, its correct name, the jurisdiction of its formation, Borrower's percentage of beneficial interest therein, and the type of business in which it is primarily engaged, are set forth on said EXHIBIT C. Borrower and each of its Material Affiliates have the power to own their respective properties and to carry on their respective businesses now being conducted. Each Material Affiliate is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the respective businesses conducted by it or its respective properties, owned or held under lease, make such qualification necessary and where the failure to be so qualified would cause a Material Adverse Change.

Section 5.15 INSURANCE. Borrower and each of its Material Affiliates have in force paid insurance with financially sound and reputable insurance companies or associations in

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such amounts and covering such risks as are usually carried by companies engaged in the same type of business and similarly situated.

Section 5.16 ACCURACY OF INFORMATION; FULL DISCLOSURE. Neither this Agreement nor any documents, financial statements, reports, notices, schedules, certificates, statements or other writings furnished by or on behalf of Borrower to Administrative Agent or any Bank in connection with the negotiation of this Agreement or the consummation of the transactions contemplated hereby, or required herein to be furnished by or on behalf of Borrower (other than projections which are made by Borrower in good faith), contains any untrue or misleading statement of a material fact or omits a material fact necessary to make the statements herein or therein not misleading. To the best of Borrower's knowledge, there is no fact which Borrower has not disclosed to Administrative Agent and the Banks in writing which materially affects adversely nor, so far as Borrower can now foresee, will materially affect adversely the business affairs or financial condition of Borrower or the ability of Borrower to perform this Agreement and the other Loan Documents.

So long as any of the Notes shall remain unpaid or the Loan Commitments remain in effect, or any other amount is owing by Borrower to any Bank hereunder or under any other Loan Document, Borrower shall, and, in the case of Sections 6.01 through 6.07, inclusive, shall cause each of its Material Affiliates to:

Section 6.01 MAINTENANCE OF EXISTENCE. Preserve and maintain its legal existence and good standing in the jurisdiction of its organization, and qualify and remain qualified as a corporation in each other jurisdiction in which such qualification is required except to the extent that failure to be so qualified in such other jurisdictions is not likely to result in a Material Adverse Change.

Section 6.02 MAINTENANCE OF RECORDS. Keep adequate records and books of account, in which complete entries will be made reflecting all of its financial transactions, in accordance with GAAP.

Section 6.03 MAINTENANCE OF INSURANCE. At all times, maintain and keep in force insurance with financially sound and reputable insurance companies or associations in such amounts and covering such risks as are usually carried by companies engaged in the same type of business and similarly situated, which insurance shall be acceptable to Administrative Agent and may provide for reasonable deductibility from coverage thereof. In connection with the foregoing, it is understood that Borrower's earthquake insurance coverage in place as of the Closing Date is acceptable to Administrative Agent.

Section 6.04 COMPLIANCE WITH LAWS; PAYMENT OF TAXES. Comply in all material respects with all Laws applicable to it or to any of its properties or any part thereof, such compliance to include, without limitation, paying before the same become delinquent all taxes,

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assessments and governmental charges imposed upon it or upon its property, except to the extent they are the subject of a Good Faith Contest.

Section 6.05 RIGHT OF INSPECTION. At any reasonable time and from time to time upon reasonable notice, permit Administrative Agent or any Bank or any agent or representative thereof to examine and make copies and abstracts from its records and books of account and visit its properties and to discuss its affairs, finances and accounts with the independent accountants of Borrower. The foregoing shall include, without limitation, the right of inspection and review by Administrative Agent, its agents and representatives (including an engineering firm selected by it) of the Toscana Apartments and of all project work and budget compliance in respect thereof.

Section 6.06 COMPLIANCE WITH ENVIRONMENTAL LAWS. Comply in all material respects with all applicable Environmental Laws and timely pay or cause to be paid all costs and expenses incurred in connection with such compliance, except to the extent there is a Good Faith Contest.

Section 6.07 MAINTENANCE OF PROPERTIES. Do all things reasonably necessary to maintain, preserve, protect and keep its properties in good repair, working order and condition except where the cost thereof is not in Borrower's best interests and the failure to do so would not result in a Material Adverse Change.

Section 6.08 PAYMENT OF COSTS. Pay all costs and expenses required for the satisfaction of the conditions of this Agreement.

Section 6.09 REPORTING AND MISCELLANEOUS DOCUMENT REQUIREMENTS. Furnish directly to each of the Banks:

(1) ANNUAL FINANCIAL STATEMENTS. As soon as available and in any event within ninety (90) days after the end of each Fiscal Year, Borrower's Consolidated Financial Statements as of the end of and for such Fiscal Year, in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the prior Fiscal Year and audited by Borrower's Accountants;

(2) QUARTERLY FINANCIAL STATEMENTS. As soon as available and in any event within forty-five (45) days after the end of each calendar quarter (other than the last quarter of the Fiscal Year), the unaudited Borrower's Consolidated Financial Statements as of the end of and for such calendar quarter, in reasonable detail and stating in comparative form the respective figures for the corresponding date and period in the prior Fiscal Year;

(3) CERTIFICATE OF NO DEFAULT AND FINANCIAL COMPLIANCE. Within forty-five (45) days after the end of each calendar quarter, a certificate of Borrower's chief financial officer or treasurer (a) stating that, to the best of his or her knowledge, no Default or Event of Default has occurred and is continuing, or if a Default or Event of Default has

occurred and is continuing, specifying the nature thereof and the action which is proposed to be taken with respect thereto; (b) setting forth the computation of the Adjusted Total Loan Commitment; (c) stating that the covenants contained in Sections 7.02 and 7.03 and in Article VIII have been complied with (or specifying those that have not been complied with) and including computations demonstrating such compliance (or non-compliance); (d) setting forth the details of all items comprising Total Outstanding Indebtedness (including amount, maturity, interest rate and amortization requirements), Secured Indebtedness, Unencumbered Combined EBITDA, Interest Expense and Unsecured Indebtedness; and (e) only at the end of each Fiscal Year, stating Borrower's taxable income;

(4) CERTIFICATE OF BORROWER'S ACCOUNTANTS. Simultaneously with the delivery of the annual financial statements required by paragraph (1) of this Section, (a) a statement of Borrower's Accountants who audited such financial statements comparing the computations set forth in the financial compliance certificate required by paragraph (3) of this Section to the audited financial statements required by paragraph (1) of this Section and (b) when the audited financial statements required by paragraph (1) of this Section have a qualified auditor's opinion, a statement of Borrower's Accountants who audited such financial statements of whether any Default or Event of Default has occurred and is continuing;

(5) NOTICE OF LITIGATION. Promptly after the commencement and knowledge thereof, notice of all actions, suits, and proceedings before any court or arbitrator, affecting Borrower which, if determined adversely to Borrower is likely to result in a Material Adverse Change;

(6) NOTICES OF DEFAULTS AND EVENTS OF DEFAULT. As soon as possible and in any event within ten (10) days after Borrower becomes aware of the occurrence of a material Default or any Event of Default, a written notice setting forth the details of such Default or Event of Default and the action which is proposed to be taken with respect thereto;

(7) SALES OR ACQUISITIONS OF ASSETS. Promptly after the occurrence thereof, written notice of any Disposition or acquisition (including Acquisitions) of assets (other than acquisitions or Dispositions of investments such as certificates of deposit, Treasury securities, money market deposits and other similar financial instruments in the ordinary course of Borrower's cash management) in excess of \$25,000,000 together with, in the case of any acquisition of such an asset, copies of all material agreements governing the acquisition and historical financial information and Borrower's projections with respect to the property acquired;

(8) MATERIAL ADVERSE CHANGE. As soon as is practicable and in any event within five (5) days after knowledge of the occurrence of any event or circumstance which is likely to result in or has resulted in a Material Adverse Change, written notice thereof;

(9) Intentionally Omitted.

(10) OFFICES. Thirty (30) days' prior written notice of any change in the chief executive office or principal place of business of Borrower;

(11) ENVIRONMENTAL AND OTHER NOTICES. As soon as possible and in any event within ten (10) days after receipt, copies of all Environmental Notices received by Borrower which are not received in the ordinary course of business and which relate to a situation which is likely to result in a Material Adverse Change;

(12) INSURANCE COVERAGE. Promptly, such information concerning Borrower's insurance coverage as Administrative Agent may reasonably request;

(13) PROXY STATEMENTS, ETC. Promptly after the sending or filing thereof, copies of all proxy statements, financial statements and reports which Borrower or its Material Affiliates sends to its shareholders, and copies of all regular, periodic and special reports, and all registration statements which Borrower or its Material Affiliates files with the Securities and Exchange Commission or any Governmental Authority which may be substituted therefor, or with any national securities exchange;

(14) RENT ROLLS, ETC. As soon as available and in any event within forty-five (45) days after the end of each calendar quarter, a rent roll and operating statement for each property directly or indirectly owned in whole or in part by Borrower;

(15) CAPITAL EXPENDITURES. As soon as available and in any event

within forty-five (45) days after the end of each Fiscal Year, a schedule of such Fiscal Year's capital expenditures and a budget for the next Fiscal Year's planned capital expenditures for each property directly or indirectly owned in whole or in part by Borrower;

(16) TOSCANA APARTMENTS. As soon as available and in any event within fifteen (15) days after the end of each calendar quarter, construction progress and budget compliance reports in respect of the Toscana Apartments, certified by Borrower to be accurate and complete; and

(17) GENERAL INFORMATION. Promptly, such other information respecting the condition or operations, financial or otherwise, of Borrower or any properties of Borrower as Administrative Agent may from time to time reasonably request.

Section 6.10 PRINCIPAL PREPAYMENTS AS A RESULT OF REDUCTION IN ADJUSTED TOTAL LOAN COMMITMENT. If the outstanding principal amount under the Notes at any time exceeds the Adjusted Total Loan Commitment, Borrower shall, within ten (10) days of Administration Agent's written demand, make a payment in the amount of such excess in reduction of such outstanding principal balance.

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ARTICLE VII. NEGATIVE COVENANTS

So long as any of the Notes shall remain unpaid, or the Loan Commitments remain in effect, or any other amount is owing by Borrower to Administrative Agent or any Bank hereunder or under any other Loan Document, Borrower shall not do any or all of the following:

Section 7.01 MERGERS ETC. Merge or consolidate with (except where Borrower is the surviving entity), or sell, assign, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) (or enter into any agreement to do any of the foregoing).

Section 7.02 INVESTMENTS. Directly or indirectly, make any loan or advance to any Person or purchase or otherwise acquire any capital stock, assets, obligations or other securities of, make any capital contribution to, or otherwise invest in, or acquire any interest in, any Person (any such transaction, an "Investment") if such Investment constitutes the acquisition of a minority interest in a Person (a "Minority Interest") and the amount of such Investment, together with the value of all other Minority Interests acquired after the Closing Date, would exceed 15% of Capitalization Value, determined as of the end of the most recent calendar quarter for which Borrower is required to have reported financial results pursuant to Section 6.09. A 50% beneficial interest in a Person, in connection with which the holder thereof exercises joint control over such Person with the holder(s) of the other 50% beneficial interest, shall not constitute a "Minority Interest" for purposes of this Section.

Section 7.03 SALE OF ASSETS. Effect a Disposition of any of its now owned or hereafter acquired assets, including assets in which Borrower owns a beneficial interest through its ownership of interests in joint ventures, aggregating more than 25% of Capitalization Value.

ARTICLE VIII. FINANCIAL COVENANTS

So long as any of the Notes shall remain unpaid, or the Loan Commitments remain in effect, or any other amount is owing by Borrower to Administrative Agent or any Bank under this Agreement or under any other Loan Document, Borrower shall not permit or suffer any or all of the following:

Section 8.01 EQUITY VALUE. At any time, Equity Value to be less than \$600,000,000.

Section 8.02 RELATIONSHIP OF TOTAL OUTSTANDING INDEBTEDNESS TO CAPITALIZATION VALUE. At any time, Total Outstanding Indebtedness to exceed 50% of Capitalization Value.

Section 8.03 RELATIONSHIP OF COMBINED EBITDA TO INTEREST EXPENSE. For any calendar quarter, the ratio of (1) Combined EBITDA to (2) Interest Expense (each for such calendar quarter and annualized, i.e., multiplied by four (4)), to be less than 2.50 to 1.00.

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Section 8.04 RELATIONSHIP OF COMBINED EBITDA TO COMBINED DEBT SERVICE . For any calendar quarter, the ratio of (1) Combined EBITDA to (2) Combined Debt Service (each for such quarter and annualized, i.e., multiplied by four (4)), to be less than 2.00 to 1.00.

Section 8.05 RELATIONSHIP OF COMBINED EBITDA TO TOTAL OUTSTANDING INDEBTEDNESS. For any calendar quarter, the ratio of (1) Combined EBITDA for

such calendar quarter annualized (i.e., multiplied by four (4)) to (2) Total Outstanding Indebtedness as of the end of such calendar quarter to be less than 15%.

Section 8.06 UNSECURED DEBT YIELD. For any calendar quarter, Unsecured Debt Yield for such calendar quarter to be less than 15%.

Section 8.07 RELATIONSHIP OF UNENCUMBERED COMBINED EBITDA TO UNSECURED INTEREST EXPENSE. For any calendar quarter, the ratio of (1) Unencumbered Combined EBITDA to (2) Unsecured Interest Expense (each for such calendar quarter and annualized, i.e., multiplied by four (4)), to be less than 1.50 to 1.00.

Section 8.08 RELATIONSHIP OF DIVIDENDS TO FUNDS FROM OPERATIONS. For any calendar year, dividends declared by Borrower to exceed 95% of Funds From Operations, each for such calendar year.

Section 8.09 RELATIONSHIP OF SECURED INDEBTEDNESS TO CAPITALIZATION VALUE. At any time, Secured Indebtedness to exceed 40% of Capitalization Value.

ARTICLE IX. EVENTS OF DEFAULT

Section 9.01 EVENTS OF DEFAULT. Any of the following events shall be an "Event of Default":

(1) If Borrower shall: fail to pay the principal of any Notes or fail to pay interest accruing on any Notes as and when due, and such failure to pay shall continue unremedied for five (5) days after the due date of such amount; or fail to make any payment required under Section 6.10 as and when due; or fail to pay any fee or any other amount due under this Agreement, any other Loan Document or the Supplemental Fee Letter as and when due and such failure to pay shall continue unremedied for two (2) Banking Days after written notice by Administrative Agent of such failure to pay; or

(2) If any representation or warranty made by Borrower in this Agreement or in any other Loan Document or which is contained in any certificate, document, opinion, financial or other statement furnished at any time under or in connection with a Loan Document shall prove to have been incorrect in any material respect on or as of the date made; or

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(3) If Borrower shall fail (a) to perform or observe any term, covenant or agreement contained in Article VII or Article VIII; or (b) to perform or observe any term, covenant or agreement contained in this Agreement (other than obligations specifically referred to elsewhere in this Section 9.01) or any Loan Document, or any other document executed by Borrower and delivered to Administrative Agent or the Banks in connection with the transactions contemplated hereby and such failure under this clause (b) shall remain unremedied for thirty (30) consecutive calendar days after notice thereof (or such shorter cure period as may be expressly prescribed in the applicable document); PROVIDED, HOWEVER, that if any such default under clause (b) above cannot by its nature be cured within such thirty (30) day, or shorter, as the case may be, grace period and so long as Borrower shall have commenced cure within such thirty (30) day, or shorter, as the case may be, grace period and shall, at all times thereafter, diligently prosecute the same to completion, Borrower shall have an additional period, not to exceed sixty (60) days, to cure such default; in no event, however, is the foregoing intended to effect an extension of the Maturity Date; or

(4) If Borrower shall fail (a) to pay any Recourse Debt (other than the payment obligations described in paragraph (1) of this Section) in any amount, or any Debt (other than Recourse Debt) in an amount equal to or greater than \$10,000,000, in any such case when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) after the expiration of any applicable grace period, or (b) to perform or observe any material term, covenant, or condition under any agreement or instrument relating to any such Debt, when required to be performed or observed, if the effect of such failure to perform or observe is to accelerate, or to permit the acceleration of, after the giving of notice or the lapse of time, or both (other than in cases where, in the judgment of the Required Banks, meaningful discussions likely to result in (i) a waiver or cure of the failure to perform or observe, or (ii) otherwise averting such acceleration are in progress between Borrower and the obligee of such Debt), the maturity of such Debt, or any such Debt shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled or otherwise required prepayment), prior to the stated maturity thereof; or

(5) If Borrower, or any Affiliate of Borrower to which \$50,000,000 or more of Capitalization Value is attributable, shall (a) generally not, or

be unable to, or shall admit in writing its inability to, pay its debts as such debts become due; or (b) make an assignment for the benefit of creditors, petition or apply to any tribunal for the appointment of a custodian, receiver or trustee for it or a substantial part of its assets; or (c) commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation Law of any jurisdiction, whether now or hereafter in effect; or (d) have had any such petition or application filed or any such proceeding shall have been commenced, against it, in which an adjudication or appointment is made or order for relief is entered, or which petition, application or proceeding remains undismissed or unstayed for a period of sixty (60) days or more; or (e) be the subject of any proceeding under which all or a substantial part of its assets may be subject to seizure, forfeiture or divestiture; or (f) by any act or omission indicate its consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of a custodian, receiver or

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trustee for all or any substantial part of its property; or (g) suffer any such custodianship, receivership or trusteeship for all or any substantial part of its property, to continue undischarged for a period of sixty (60) days or more; or

(6) If one or more judgments, decrees or orders for the payment of money in excess of \$10,000,000 (excluding any such judgments, decrees or orders which are fully covered by insurance) in the aggregate shall be rendered against Borrower or any of its Material Affiliates, and any such judgments, decrees or orders shall continue unsatisfied and in effect for a period of thirty (30) consecutive days without being vacated, discharged, satisfied or stayed or bonded pending appeal; or

(7) If any of the following events shall occur or exist with respect to Borrower or any ERISA Affiliate: (a) any Prohibited Transaction involving any Plan; (b) any Reportable Event with respect to any Plan; (c) the filing under Section 4041 of ERISA of a notice of intent to terminate any Plan or the termination of any Plan; (d) any event or circumstance which would constitute grounds for the termination of, or for the appointment of a trustee to administer, any Plan under Section 4042 of ERISA, or the institution by the PBGC of proceedings for any such termination or appointment under Section 4042 of ERISA; or (e) complete or partial withdrawal under Section 4201 or 4204 of ERISA from a Multiemployer Plan or the reorganization, insolvency, or termination of any Multiemployer Plan; and in each case above, if such event or conditions, if any, could in the reasonable opinion of any Bank subject Borrower to any tax, penalty, or other liability to a Plan, Multiemployer Plan, the PBGC or otherwise (or any combination thereof) which in the aggregate exceeds or is likely to exceed \$50,000; or

(8) If at any time Borrower is not a qualified real estate investment trust under Sections 856 through 860 of the Code or is not a publicly traded company listed on the New York Stock Exchange; or

(9) If at any time any portion of Borrower's assets constitute plan assets for ERISA purposes (within the meaning of C.F.R. ss.2510.3-101); or

(10) If, in the reasonable judgment of all of the Banks, there shall occur a Material Adverse Change.

Section 9.02 REMEDIES. If any Event of Default shall occur and be continuing, Administrative Agent shall, upon request of the Majority Banks, by notice to Borrower, (1) declare the outstanding balance of the Notes, all interest thereon, and all other amounts payable under this Agreement to be forthwith due and payable, whereupon such balance, all such interest, and all such amounts due under this Agreement and under any other Loan Document shall become and be forthwith due and payable, without presentment, demand, protest, or further notice of any kind, all of which are hereby expressly waived by Borrower; and/or (2) exercise any remedies provided in any of the Loan Documents or by law. Notwithstanding the foregoing, if an Event of Default under Section 9.01(10) shall occur and be continuing,

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Administrative Agent shall not be entitled to exercise the foregoing remedies until (1) it has received a written notice from all of the Banks (the "Unanimous Bank Notices") (i) requesting Administrative Agent exercise such remedies and (ii) indicating each Bank's conclusion in its reasonable judgment that a Material Adverse Change has occurred and (2) Administrative Agent has provided notice to Borrower, together with copies of all of the Unanimous Bank Notices.

Section 10.01 APPOINTMENT, POWERS AND IMMUNITIES OF ADMINISTRATIVE AGENT. Each Bank hereby irrevocably appoints and authorizes Administrative Agent to act as its agent hereunder and under any other Loan Document with such powers as are specifically delegated to Administrative Agent by the terms of this Agreement and any other Loan Document, together with such other powers as are reasonably incidental thereto. Administrative Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and any other Loan Document or required by law, and shall not by reason of this Agreement be a fiduciary or trustee for any Bank except to the extent that Administrative Agent acts as an agent with respect to the receipt or payment of funds (nor shall Administrative Agent have any fiduciary duty to Borrower nor shall any Bank have any fiduciary duty to Borrower or to any other Bank). Administrative Agent shall not be responsible to the Banks for any recitals, statements, representations or warranties made by Borrower or any officer, partner or official of Borrower or any other Person contained in this Agreement or any other Loan Document, or in any certificate or other document or instrument referred to or provided for in, or received by any of them under, this Agreement or any other Loan Document, or for the value, legality, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or any other document or instrument referred to or provided for herein or therein, for the perfection or priority of any Lien securing the Obligations or for any failure by Borrower to perform any of its obligations hereunder or thereunder. Administrative Agent may employ agents and attorneys-in-fact and shall not be responsible, except as to money or securities received by it or its authorized agents, for the negligence or misconduct of any such agents or attorneys-in-fact selected by it with reasonable care. Neither Administrative Agent nor any of its directors, officers, employees or agents shall be liable or responsible for any action taken or omitted to be taken by it or them hereunder or under any other Loan Document or in connection herewith or therewith, except for its or their own gross negligence or willful misconduct. Borrower shall pay any fee agreed to by Borrower and Administrative Agent with respect to Administrative Agent's services hereunder.

Section 10.02 RELIANCE BY ADMINISTRATIVE AGENT. Administrative Agent shall be entitled to rely upon any certification, notice or other communication (including any thereof by telephone, telex, telegram or cable) believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by Administrative Agent. Administrative Agent may deem and treat each Bank as the holder of the Loan made by it for all purposes hereof and shall not be required to deal with any Person who has acquired a

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participation in any Loan or participation from a Bank. As to any matters not expressly provided for by this Agreement or any other Loan Document, Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder in accordance with instructions signed by the Required Banks, and such instructions of the Required Banks and any action taken or failure to act pursuant thereto shall be binding on all of the Banks and any other holder of all or any portion of any Loan or participation.

Section 10.03 DEFAULTS. Administrative Agent shall not be deemed to have knowledge of the occurrence of a Default or Event of Default unless Administrative Agent has received notice from a Bank or Borrower specifying such Default or Event of Default and stating that such notice is a "Notice of Default." In the event that Administrative Agent receives such a notice of the occurrence of a Default or Event of Default, Administrative Agent shall give prompt notice thereof to the Banks. Administrative Agent, following consultation with the Banks, shall (subject to Section 10.07) take such action with respect to such Default or Event of Default which is continuing as shall be directed by the Majority Banks; provided that, unless and until Administrative Agent shall have received such directions, Administrative Agent may take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interest of the Banks; and provided further that Administrative Agent shall not send a notice of Default or acceleration to Borrower without the approval of the Majority Banks. In no event shall Administrative Agent be required to take any such action which it determines to be contrary to law.

Section 10.04 RIGHTS OF ADMINISTRATIVE AGENT AS A BANK. With respect to its Loan Commitment and the Loan provided by it, Administrative Agent in its capacity as a Bank hereunder shall have the same rights and powers hereunder as any other Bank and may exercise the same as though it were not acting as Administrative Agent, and the term "Bank" or "Banks" shall, unless the context otherwise indicates, include Administrative Agent in its capacity as a Bank. Administrative Agent and its Affiliates may (without having to account therefor to any Bank) accept deposits from, lend money to (on a secured or unsecured basis), and generally engage in any kind of banking, trust or other business with Borrower (and any Affiliates of Borrower) as if it were not acting as Administrative Agent.

Section 10.05 INDEMNIFICATION OF ADMINISTRATIVE AGENT. Each Bank agrees to indemnify Administrative Agent (to the extent not reimbursed under Section 12.04

or under the applicable provisions of any other Loan Document, but without limiting the obligations of Borrower under Section 12.04 or such provisions), for its Pro Rata Share of any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against Administrative Agent in any way relating to or arising out of this Agreement, any other Loan Document or any other documents contemplated by or referred to herein or the transactions contemplated hereby or thereby (including, without limitation, the costs and expenses which Borrower is obligated to pay under Section 12.04) or under the applicable provisions of any other Loan Document or the enforcement of any of the terms hereof or thereof or of any such other documents or instruments; provided that no Bank shall be liable

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for (1) any of the foregoing to the extent they arise from the gross negligence or willful misconduct of the party to be indemnified, (2) any loss of principal or interest with respect to Administrative Agent's Loan or (3) any loss suffered by Administrative Agent in connection with a swap or other interest rate hedging arrangement entered into with Borrower.

Section 10.06 NON-RELIANCE ON ADMINISTRATIVE AGENT AND OTHER BANKS. Each Bank agrees that it has, independently and without reliance on Administrative Agent or any other Bank, and based on such documents and information as it has deemed appropriate, made its own credit analysis of Borrower and the decision to enter into this Agreement and that it will, independently and without reliance upon Administrative Agent or any other Bank, and based on such documents and information as it shall deem appropriate at the time, continue to make its own analysis and decisions in taking or not taking action under this Agreement or any other Loan Document. Administrative Agent shall not be required to keep itself informed as to the performance or observance by Borrower of this Agreement or any other Loan Document or any other document referred to or provided for herein or therein or to inspect the properties or books of Borrower. Except for notices, reports and other documents and information expressly required to be furnished to the Banks by Administrative Agent hereunder, Administrative Agent shall not have any duty or responsibility to provide any Bank with any credit or other information concerning the affairs, financial condition or business of Borrower (or any Affiliate of Borrower) which may come into the possession of Administrative Agent or any of its Affiliates. Administrative Agent shall not be required to file this Agreement, any other Loan Document or any document or instrument referred to herein or therein, for record or give notice of this Agreement, any other Loan Document or any document or instrument referred to herein or therein, to anyone.

Section 10.07 FAILURE OF ADMINISTRATIVE AGENT TO ACT. Except for action expressly required of Administrative Agent hereunder, Administrative Agent shall in all cases be fully justified in failing or refusing to act hereunder unless it shall have received further assurances (which may include cash collateral) of the indemnification obligations of the Banks under Section 10.05 in respect of any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

Section 10.08 RESIGNATION OR REMOVAL OF ADMINISTRATIVE AGENT. Administrative Agent hereby agrees not to unilaterally resign except in the event it becomes an Affected Bank and is removed or replaced as a Bank pursuant to Section 3.07, in which event it shall have the right to resign. Administrative Agent may be removed at any time with cause by the Required Banks, provided that Borrower and the other Banks shall be promptly notified thereof. Upon any such removal, the Required Banks shall have the right to appoint a successor Administrative Agent which successor Administrative Agent, so long as it is reasonably acceptable to the Required Banks, shall be that Bank then having the greatest Loan Commitment. If no successor Administrative Agent shall have been so appointed by the Required Banks and shall have accepted such appointment within thirty (30) days after the Required Banks' removal of the retiring Administrative Agent, then the retiring Administrative Agent may, on behalf of the Banks, appoint a successor Administrative Agent, which shall be

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one of the Banks. The Required Banks or the retiring Administrative Agent, as the case may be, shall upon the appointment of a successor Administrative Agent promptly so notify Borrower and the other Banks. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. After any retiring Administrative Agent's removal hereunder as Administrative Agent, the provisions of this Article X shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as Administrative Agent.

Section 10.09 AMENDMENTS CONCERNING AGENCY FUNCTION. Notwithstanding anything to the contrary contained herein, Administrative Agent shall not be

bound by any waiver, amendment, supplement or modification hereof or of any other Loan Document which affects its duties, rights, and/or function hereunder or thereunder unless it shall have given its prior written consent thereto.

Section 10.10 LIABILITY OF ADMINISTRATIVE AGENT. Administrative Agent shall not have any liabilities or responsibilities to Borrower on account of the failure of any Bank to perform its obligations hereunder or to any Bank on account of the failure of Borrower to perform its obligations hereunder or under any other Loan Document.

Section 10.11 TRANSFER OF AGENCY FUNCTION. Without the consent of Borrower or any Bank, Administrative Agent may at any time or from time to time transfer its functions as Administrative Agent hereunder to any of its offices wherever located in the United States, provided that Administrative Agent shall promptly notify Borrower and the Banks thereof.

Section 10.12 NON-RECEIPT OF FUNDS BY ADMINISTRATIVE AGENT. Unless Administrative Agent shall have received notice from a Bank or Borrower (either one as appropriate being the "Payor") prior to the date on which such Bank is to make payment hereunder to Administrative Agent of the proceeds of a Loan or Borrower is to make payment to Administrative Agent, as the case may be (either such payment being a "Required Payment"), which notice shall be effective upon receipt, that the Payor will not make the Required Payment in full to Administrative Agent, Administrative Agent may assume that the Required Payment has been made in full to Administrative Agent on such date, and Administrative Agent in its sole discretion may, but shall not be obligated to, in reliance upon such assumption, make the amount thereof available to the intended recipient on such date. If and to the extent the Payor shall not have in fact so made the Required Payment in full to Administrative Agent, the recipient of such payment shall repay to Administrative Agent forthwith on demand such amount made available to it together with interest thereon, for each day from the date such amount was so made available by Administrative Agent until the date Administrative Agent recovers such amount, at the customary rate set by Administrative Agent for the correction of errors among Banks for three (3) Banking Days and thereafter at the Base Rate.

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Section 10.13 WITHHOLDING TAXES. Each Bank represents that it is entitled to receive any payments to be made to it hereunder without the withholding of any tax and will furnish to Administrative Agent such forms, certifications, statements and other documents as Administrative Agent may request from time to time to evidence such Bank's exemption from the withholding of any tax imposed by any jurisdiction or to enable Administrative Agent or Borrower to comply with any applicable Laws or regulations relating thereto. Without limiting the effect of the foregoing, if any Bank is not created or organized under the laws of the United States of America or any state thereof, such Bank will furnish to Administrative Agent a United States Internal Revenue Service Form 4224 in respect of all payments to be made to such Bank by Borrower or Administrative Agent under this Agreement or any other Loan Document or a United States Internal Revenue Service Form 1001 establishing such Bank's complete exemption from United States withholding tax in respect of payments to be made to such Bank by Borrower or Administrative Agent under this Agreement or any other Loan Document, or such other forms, certifications, statements or documents, duly executed and completed by such Bank as evidence of such Bank's exemption from the withholding of U.S. tax with respect thereto. Administrative Agent shall not be obligated to make any payments hereunder to such Bank in respect of any Loan or participation or such Bank's Loan Commitment or obligation to purchase participations until such Bank shall have furnished to Administrative Agent the requested form, certification, statement or document.

Section 10.14 MINIMUM COMMITMENT BY CO-AGENTS. Subsequent to the Closing Date and provided there exists no Event of Default, UBS agrees to maintain a Loan Commitment in an amount no less than 8.57% of the Total Loan Commitment and UBC agrees to maintain a Loan Commitment in an amount no less than 7.14% of the Total Loan Commitment, in either case as the same may be decreased from time to time in accordance with the provisions hereof. UBS and UBC further agree to hold and not to participate or assign any of such respective amounts other than an assignment to a Federal Reserve Bank or to their Parent or a majority-owned subsidiary.

Section 10.15 PRO RATA TREATMENT. Except to the extent otherwise provided, (1) each advance of proceeds of the Ratable Loans shall be made by the Banks; (2) each reduction of the amount of the Total Loan Commitment under Section 2.10 shall be applied to the Loan Commitments of the Banks; and (3) each payment of the fees accruing under paragraphs (b) and (c) of Section 2.07 and clause (i) of Section 2.16(f) shall be made for the account of the Banks, ratably according to the amounts of their respective Loan Commitments.

Section 10.16 SHARING OF PAYMENTS AMONG BANKS. If a Bank shall obtain payment of any principal of or interest on any Loan made by it through the exercise of any right of setoff, banker's lien, counterclaim, or by any other means (including direct payment), and such payment results in such Bank receiving a greater payment than it would have been entitled to had such payment

been paid directly to Administrative Agent for disbursement to the Banks, then such Bank shall promptly purchase for cash from the other Banks participations in the Loans made by the other Banks in such amounts, and make such other adjustments from time to time as shall be equitable to the end that all the Banks shall share ratably the benefit of such

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payment. To such end the Banks shall make appropriate adjustments among themselves (by the resale of participations sold or otherwise) if such payment is rescinded or must otherwise be restored. Borrower agrees that any Bank so purchasing a participation in the Loans made by other Banks may exercise all rights of setoff, banker's lien, counterclaim or similar rights with respect to such participation. Nothing contained herein shall require any Bank to exercise any such right or shall affect the right of any Bank to exercise, and retain the benefits of exercising, any such right with respect to any other indebtedness of Borrower.

Section 10.17 POSSESSION OF DOCUMENTS. Each Bank shall keep possession of its own Note. Administrative Agent shall hold all the other Loan Documents and related documents in its possession and maintain separate records and accounts with respect thereto, and shall permit the Banks and their representatives access at all reasonable times to inspect such Loan Documents, related documents, records and accounts.

ARTICLE XI. NATURE OF OBLIGATIONS

Section 11.01 ABSOLUTE AND UNCONDITIONAL OBLIGATIONS. Borrower acknowledges and agrees that its obligations and liabilities under this Agreement and under the other Loan Documents shall be absolute and unconditional irrespective of (1) any lack of validity or enforceability of any of the Obligations, any Loan Documents, or any agreement or instrument relating thereto; (2) any change in the time, manner or place of payment of, or in any other term in respect of, all or any of the Obligations, or any other amendment or waiver of or consent to any departure from any Loan Documents or any other documents or instruments executed in connection with or related to the Obligations; (3) any exchange or release of any collateral, if any, or of any other Person from all or any of the Obligations; or (4) any other circumstances which might otherwise constitute a defense available to, or a discharge of, Borrower or any other Person in respect of the Obligations.

The obligations and liabilities of Borrower under this Agreement and other Loan Documents shall not be conditioned or contingent upon the pursuit by any Bank or any other Person at any time of any right or remedy against Borrower or any other Person which may be or become liable in respect of all or any part of the Obligations or against any collateral or security or guarantee therefor or right of setoff with respect thereto.

Section 11.02 NON-RECOURSE TO BORROWER'S PRINCIPALS. Notwithstanding anything to the contrary contained herein, in any of the other Loan Documents, or in any other instruments, certificates, documents or agreements executed in connection with the Loans (all of the foregoing, for purposes of this Section, hereinafter referred to, individually and collectively, as the "Relevant Documents"), no recourse under or upon any Obligation, representation, warranty, promise or other matter whatsoever shall be had against any of Borrower's Principals and each Bank expressly waives and releases, on behalf of itself and its successors and assigns, all right to assert any liability whatsoever under or with respect to the Relevant Documents against, or to satisfy any claim or obligation arising thereunder against, any of Borrower's Principals or out of any assets of Borrower's Principals, PROVIDED,

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HOWEVER, that nothing in this Section shall be deemed to (1) release Borrower from any personal liability pursuant to, or from any of its respective obligations under, the Relevant Documents, or from personal liability for its fraudulent actions or fraudulent omissions; (2) release any of Borrower's Principals from personal liability for its or his own fraudulent actions or fraudulent omissions; (3) constitute a waiver of any obligation evidenced or secured by, or contained in, the Relevant Documents or affect in any way the validity or enforceability of the Relevant Documents; or (4) limit the right of Administrative Agent and/or the Banks to proceed against or realize upon any collateral hereafter given for the Loans or any and all of the assets of Borrower (notwithstanding the fact that any or all of Borrower's Principals have an ownership interest in Borrower and, thereby, an interest in the assets of Borrower) or to name Borrower (or, to the extent that the same are required by applicable law or are determined by a court to be necessary parties in connection with an action or suit against Borrower or any collateral hereafter given for the Loans, any of Borrower's Principals) as a party defendant in, and to enforce against any collateral hereafter given for the Loans and/or assets of Borrower any judgment obtained by Administrative Agent and/or the Banks with respect to, any action or suit under the Relevant Documents so long as no

judgment shall be taken (except to the extent taking a judgment is required by applicable law or determined by a court to be necessary to preserve Administrative Agent's and/or Banks' rights against any collateral hereafter given for the Loans or Borrower, but not otherwise) or shall be enforced against Borrower's Principals or their assets.

ARTICLE XII. MISCELLANEOUS

Section 12.01 BINDING EFFECT OF REQUEST FOR ADVANCE. Borrower agrees that, by its acceptance of any advance of proceeds of the Loans under this Agreement, it shall be bound in all respects by the request for advance submitted on its behalf in connection therewith with the same force and effect as if Borrower had itself executed and submitted the request for advance and whether or not the request for advance is executed and/or submitted by an authorized person.

Section 12.02 AMENDMENTS AND WAIVERS. Amendments to EXHIBIT F may be made by written agreement among Borrower and Co-Agents. No other amendment or any material waiver of any provision of this Agreement or any other Loan Document nor consent to any material departure by Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Required Banks and, solely for purposes of its acknowledgment thereof, Administrative Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given, PROVIDED, HOWEVER, that no amendment, waiver or consent shall, unless in writing and signed by all the Banks do any of the following: (1) reduce the principal of, or interest on, the Notes or any fees due hereunder or any other amount due hereunder or under any Loan Document; (2) postpone any date fixed for any payment of principal of, or interest on, the Notes or any fees due hereunder or under any Loan Document; (3) change the definition of Required Banks; (4) amend this Section or any other provision requiring the consent of all the Banks; or (5) waive any default under paragraph (5) of Section 9.01. Any advance of proceeds of the Loans made prior to or without

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the fulfillment by Borrower of all of the conditions precedent thereto, whether or not known to Administrative Agent and the Banks, shall not constitute a waiver of the requirement that all conditions, including the non-performed conditions, shall be required with respect to all future advances. No failure on the part of Administrative Agent or any Bank to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof or preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

Section 12.03 USURY. Anything herein to the contrary notwithstanding, the obligations of Borrower under this Agreement and the Notes shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of law applicable to a Bank limiting rates of interest which may be charged or collected by such Bank.

Section 12.04 EXPENSES; INDEMNIFICATION. Borrower agrees to reimburse Co-Agents and Administrative Agent on demand for all costs, expenses, and charges (including, without limitation, all reasonable fees and charges of engineers, appraisers and legal counsel) incurred by any of them in connection with the Loans and to reimburse each of the Banks for reasonable legal costs, expenses and charges incurred by each of the Banks in connection with the performance or enforcement of this Agreement, the Notes, or any other Loan Documents; provided, HOWEVER, that Borrower is not responsible for costs, expenses and charges incurred by the Bank Parties in connection with the administration or syndication of the Loans (other than the fees required by the Supplemental Fee Letter). Borrower agrees to indemnify Administrative Agent and each Bank and their respective directors, officers, employees and agents from, and hold each of them harmless against, any and all losses, liabilities, claims, damages or expenses incurred by any of them arising out of or by reason of (x) any claims by brokers due to acts or omissions by Borrower, or (y) any investigation or litigation or other proceedings (including any threatened investigation or litigation or other proceedings) relating to any actual or proposed use by Borrower of the proceeds of the Loans, including without limitation, the reasonable fees and disbursements of counsel incurred in connection with any such investigation or litigation or other proceedings (but excluding any such losses, liabilities, claims, damages or expenses incurred by reason of the gross negligence or willful misconduct of the Person to be indemnified).

The obligations of Borrower under this Section shall survive the repayment of all amounts due under or in connection with any of the Loan Documents and the termination of the Loans.

Section 12.05 ASSIGNMENT; PARTICIPATION. This Agreement shall be binding upon, and shall inure to the benefit of, Borrower, Administrative Agent, the Banks and their respective successors and permitted assigns. Borrower may not assign or transfer its rights or obligations hereunder.

Any Bank may at any time grant to one or more banks or other institutions (each a "Participant") participating interests in its Loan (the "Participations"), PROVIDED, HOWEVER, that each Participation shall be in the minimum amount of \$10,000,000. In the event of any such grant by a Bank of a participating interest to a Participant, whether or not Borrower or Administrative Agent was given notice, such Bank shall remain responsible for the performance of its obligations hereunder, and Borrower and Administrative Agent shall continue to deal solely and directly with such Bank in connection with such Bank's rights and obligations hereunder. Any agreement pursuant to which any Bank may grant such a participating interest shall provide that such Bank shall retain the sole right and responsibility to enforce the obligations of Borrower hereunder and under any other Loan Document including, without limitation, the right to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; provided that such participation agreement may provide that such Bank will not agree to any modification, amendment or waiver of this Agreement described in clause (1) through (5) of Section 12.02 without the consent of the Participant.

Subject to the provisions of Section 10.14, any Bank may at any time assign to any bank or other institution with the acknowledgment of Administrative Agent and the consent of Co-Agents and, provided there exists no Event of Default, Borrower, which consents shall not be unreasonably withheld or delayed (such assignee, a "Consented Assignee"), or to one or more banks or other institutions which are majority owned subsidiaries of a Bank or to the Parent of a Bank (each Consented Assignee or subsidiary bank or institution, an "Assignee") all, or a proportionate part of all, of its rights and obligations under this Agreement and its Note, and such Assignee shall assume rights and obligations, pursuant to an Assignment and Assumption Agreement executed by such Assignee and the assigning Bank, provided that, in each case, after giving effect to such assignment the Assignee's Loan Commitment, and, in the case of a partial assignment, the assigning Bank's Loan Commitment, each will be equal to or greater than \$10,000,000, provided, further, however, that the assigning Bank shall not be required to maintain a Loan Commitment in the minimum amount aforesaid in the event it assigns all of its rights and obligations under this Agreement and its Note. Upon (i) execution and delivery of such instrument, (ii) payment by such Assignee to the Bank of an amount equal to the purchase price agreed between the Bank and such Assignee and (iii) payment by such Assignee to Administrative Agent of a fee, for Administrative Agent's own account, in the amount of \$2,500, such Assignee shall be a Bank Party to this Agreement and shall have all the rights and obligations of a Bank as set forth in such Assignment and Assumption Agreement, and the assigning Bank shall be released from its obligations hereunder to a corresponding extent, and no further consent or action by any party shall be required. Upon the consummation of any assignment pursuant to this paragraph, substitute Ratable Loan Notes shall be issued to the assigning Bank and Assignee by Borrower, in exchange for the return of the original Ratable Loan Note. The obligations evidenced by such substitute notes shall constitute "Obligations" for all purpose of this Agreement and the other Loan Documents. In connection with Borrower's execution of substitute notes as aforesaid, Borrower shall deliver to Administrative Agent evidence, satisfactory to Administrative Agent, of all requisite corporate action to authorize Borrower's execution and delivery of the substitute notes and any

related documents. If the Assignee is not incorporated under the laws of the United States of America or a state thereof, it shall, prior to the first date on which interest or fees are payable hereunder for its account, deliver to Borrower and Administrative Agent certification as to exemption from deduction or withholding of any United States federal income taxes in accordance with Section 10.13. Each Assignee shall be deemed to have made the representations contained in, and shall be bound by the provisions of, Section 10.13.

Any Bank may at any time assign all or any portion of its rights under this Agreement and its Note to a Federal Reserve Bank. No such assignment shall release the transferor Bank from its obligations hereunder.

Borrower recognizes that in connection with a Bank's selling of Participations or making of assignments, any or all documentation, financial statements, appraisals and other data, or copies thereof, relevant to Borrower or the Loans may be exhibited to and retained by any such Participant or assignee or prospective Participant or assignee. In connection with a Bank's delivery of any financial statements and appraisals to any such Participant or assignee or prospective Participant or assignee, such Bank shall also indicate that the same are delivered on a confidential basis. Borrower agrees to provide all assistance reasonably requested by a Bank to enable such Bank to sell Participations or make assignments of its Loan as permitted by this Section. Each Bank agrees to provide Borrower with notice of all Participations sold by such Bank.

Section 12.06 DOCUMENTATION SATISFACTORY. All documentation required from or to be submitted on behalf of Borrower in connection with this Agreement and the documents relating hereto shall be subject to the prior approval of, and be satisfactory in form and substance to, Administrative Agent, its counsel and, where specifically provided herein, the Banks. In addition, the persons or parties responsible for the execution and delivery of, and signatories to, all of such documentation, shall be acceptable to, and subject to the approval of, Administrative Agent and its counsel and the Banks.

Section 12.07 NOTICES. Unless the party to be notified otherwise notifies the other party in writing as provided in this Section, and except as otherwise provided in this Agreement, notices shall be given to Administrative Agent by telephone, confirmed by writing, and to the Banks and to Borrower by ordinary mail or overnight courier, receipt confirmed, addressed to such party at its address on the signature page of this Agreement. Notices shall be effective (1) if by telephone, at the time of such telephone conversation, (2) if given by mail, three (3) days after mailing; and (3) if given by overnight courier, upon receipt.

Section 12.08 SETOFF. Borrower agrees that, in addition to (and without limitation of) any right of setoff, bankers' lien or counterclaim a Bank may otherwise have, each Bank shall be entitled, at its option, to offset balances (general or special, time or demand, provisional or final) held by it for the account of Borrower at any of such Bank's offices, in Dollars or in any other currency, against any amount payable by Borrower to such Bank under this Agreement or such Bank's Note, or any other Loan Document which is not paid when due (regardless of

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whether such balances are then due to Borrower), in which case it shall promptly notify Borrower and Administrative Agent thereof; provided that such Bank's failure to give such notice shall not affect the validity thereof. Payments by Borrower hereunder or under the other Loan Documents shall be made without setoff or counterclaim.

Section 12.09 TABLE OF CONTENTS; HEADINGS. Any table of contents and the headings and captions hereunder are for convenience only and shall not affect the interpretation or construction of this Agreement.

Section 12.10 SEVERABILITY. The provisions of this Agreement are intended to be severable. If for any reason any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

Section 12.11 COUNTERPARTS. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing any such counterpart.

Section 12.12 INTEGRATION. The Loan Documents and Supplemental Fee Letter set forth the entire agreement among the parties hereto relating to the transactions contemplated thereby and supersede any prior oral or written statements or agreements with respect to such transactions.

Section 12.13 GOVERNING LAW. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York.

Section 12.14 WAIVERS. In connection with the obligations and liabilities as aforesaid, Borrower hereby waives (1) promptness and diligence; (2) notice of any actions taken by any Bank Party under this Agreement, any other Loan Document or any other agreement or instrument relating thereto except to the extent otherwise provided herein; (3) all other notices, demands and protests, and all other formalities of every kind in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this Section, might constitute grounds for relieving Borrower of its obligations hereunder; (4) any requirement that any Bank Party protect, secure, perfect or insure any Lien on any collateral or exhaust any right or take any action against Borrower or any other Person or any collateral; (5) any right or claim of right to cause a marshalling of the assets of Borrower; and (6) all rights of subrogation or contribution, whether arising by contract or operation of law (including, without limitation, any such right arising under the Federal Bankruptcy Code) or otherwise by reason of payment by Borrower, either jointly or severally, pursuant to this Agreement or other Loan Documents.

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Section 12.15 JURISDICTION; IMMUNITIES. Borrower, Administrative Agent and

each Bank hereby irrevocably submit to the jurisdiction of any New York State or United States Federal court sitting in New York City over any action or proceeding arising out of or relating to this Agreement, the Notes or any other Loan Document. Borrower, Administrative Agent, and each Bank irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York State or United States Federal court. Borrower, Administrative Agent, and each Bank irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower, Administrative Agent or each Bank, as the case may be, at the addresses specified herein. Borrower, Administrative Agent and each Bank agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Borrower, Administrative Agent and each Bank further waive any objection to venue in the State of New York and any objection to an action or proceeding in the State of New York on the basis of forum non conveniens. Borrower, Administrative Agent and each Bank agree that any action or proceeding brought against Borrower, Administrative Agent or any Bank, as the case may be, shall be brought only in a New York State court sitting in New York City or a United States Federal court sitting in New York City, to the extent permitted or not expressly prohibited by applicable law.

Nothing in this Section shall affect the right of Borrower, Administrative Agent or any Bank to serve legal process in any other manner permitted by law.

To the extent that Borrower, Administrative Agent or any Bank have or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether from service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, Borrower, Administrative Agent and each Bank hereby irrevocably waive such immunity in respect of its obligations under this Agreement, the Notes and any other Loan Document.

BORROWER, ADMINISTRATIVE AGENT AND EACH BANK WAIVE ANY RIGHT EACH SUCH PARTY MAY HAVE TO JURY TRIAL IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT WITH RESPECT TO THIS AGREEMENT, THE NOTES OR THE LOANS.

Section 12.16 DESIGNATED LENDER. Any Bank (other than a Bank who is such solely because it is a Designated Lender) (each, a "Designating Lender") may at any time designate one (1) Designated Lender to fund Bid Rate Loans on behalf of such Designating Lender subject to the terms of this Section and the provisions in Section 12.05 shall not apply to such designation. No Bank may designate more than one (1) Designated Lender. The parties to each such designation shall execute and deliver to Administrative Agent for its acceptance a Designation Agreement. Upon such receipt of an appropriately completed Designation Agreement executed by a Designating Lender and a designee representing that it is a Designated Lender, Administrative Agent will accept such Designation Agreement and give prompt notice thereto to Borrower, whereupon, (i) from and after the "Effective Date"

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specified in the Designation Agreement, the Designated Lender shall become a party to this Agreement with a right to make Bid Rate Loans on behalf of its Designating Lender pursuant to Section 2.02 after Borrower has accepted the Bid Rate Quote of the Designating Lender and (ii) the Designated Lender shall not be required to make payments with respect to any obligations in this Agreement except to the extent of excess cash flow of such Designated Lender which is not otherwise required to repay obligations of such Designated Lender which are then due and payable; PROVIDED, HOWEVER, that regardless of such designation and assumption by the Designated Lender, the Designating Lender shall be and remain obligated to Borrower, Administrative Agent and the Banks for each and every of the obligations of the Designating Lender and its related Designated Lender with respect to this Agreement, including, without limitation, any indemnification obligations under Section 10.05. Each Designating Lender shall serve as the administrative agent of its Designated Lender and shall on behalf of, and to the exclusion of, the Designated Lender: (i) receive any and all payments made for the benefit of the Designated Lender and (ii) give and receive all communications and notices and take all actions hereunder, including, without limitation, votes, approvals, waivers and consents under or relating to this Agreement and the other Loan Documents. Any such notice, communication, vote, approval, waiver or consent shall be signed by the Designating Lender as administrative agent for the Designated Lender and shall not be signed by the Designated Lender on its own behalf, but shall be binding on the Designated Lender to the same extent as if actually signed by the Designated Lender. Borrower, Administrative Agent and the Banks may rely thereon without any requirement that the Designated Lender sign or acknowledge the same. No Designated Lender may assign or transfer all or any portion of its interest hereunder or under any other Loan Document, other than assignments to the Designating Lender which originally designated such Designated Lender.

Section 12.17 NO BANKRUPTCY PROCEEDINGS. Each of Borrower, the Banks and Administrative Agent hereby agrees that it will not institute against any Designated Lender or join any other Person in instituting against any Designated Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation

proceeding under any federal or state bankruptcy or similar law, for one (1) year and one (1) day after the payment in full of the latest maturing commercial paper note issued by such Designated Lender.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

BAY APARTMENT COMMUNITIES, INC.

By: /S/ Jeffrey B. Van Horn

Name: Jeffrey B. Van Horn
Title: Chief Financial Officer

Address for Notices:

4340 Stevens Creek Blvd.
Suite 275
San Jose, CA 95129
Attention: Jeffrey B. Van Horn, Chief
Financial Officer
Telephone: (408) 556-1812
Telecopy: (408) 556-1863

UNION BANK OF SWITZERLAND
(New York Branch)
(as Co-Agent, Bank and Administrative Agent)

By: /s/ Xiomara Martez

Name: Xiomara Martez
Title: Assistant Vice President

By: /s/ Joseph M. Bassil

Name: Joseph M. Bassil
Title: Director

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Address for Notices and Applicable Lending
Office:

Union Bank of Switzerland
299 Park Avenue
38th Floor
New York, New York 10171-0026
Attention: Xiomara Martez
Telephone: (212) 821-3872
Telecopy: (212) 821-4138

UNION BANK OF CALIFORNIA, N.A.

By: /s/ Ronald S. Ortiz

Name: Ronald S. Ortiz
Title: Vice President

By: /s/ James B. Wohlleb

Name: James B. Wohlleb
Title: Senior Vice President

Applicable Lending Office:

Union Bank of California, N.A.
200 Pringle Avenue
Suite 200
Walnut Creek, CA 94596

Address for Notices:

Union Bank of California, N.A.
200 Pringle Avenue
Suite 200
Walnut Creek, CA 94596
Attention: Mr. Ron Ortiz
Telephone: (510) 947-2485
Telecopy: (510) 947-2416

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THE FIRST NATIONAL BANK OF CHICAGO

By: /s/ Kevin L. Gillen

Name: Kevin L. Gillen
Title: Assistant Vice President

Applicable Lending Office and
Address for Notices:

The First National Bank of Chicago
One First National Plaza
Suite 0151
Chicago, Illinois 60670
Attention: Mr. Kevin Gillen
Telephone: (312) 732-5067
Telecopy: (312) 732-1117

COMMERZBANK AKTIENGESELLSCHAFT,
LOS ANGELES BRANCH

By: /s/ Henry Blagden

Name: Henry Blagden
Title: Assistant Treasurer

By: /s/ Thomas J. Carney

Name: Thomas J. Carney
Title: Vice President

Applicable Lending Office:

Commerzbank Aktiengesellschaft,
Los Angeles Branch
633 West Fifth Street
Suite 6600
Los Angeles, California 90017

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Address for Notices:

Commerzbank AG
2 World Financial Center
34th Floor
New York, New York 10281
Attention: Mr. David Schwartz/

Ms. Christine Finkel
Telephone: (212) 266-7632
Telecopy: (212) 266-7530

- and -

Commerzbank Aktiengesellschaft,
Los Angeles Branch
633 West Fifth Street
Suite 6600
Los Angeles, California 90017
Attention: Mr. Steven F. Larsen
Telephone: (213) 623-8223
Telecopy: (213) 623-0039

BANK OF MONTREAL, CHICAGO BRANCH

By: /s/ Maureen T. Mills

Name: Maureen T. Mills
Title: Director

Applicable Lending Office and Address for
Notices:

Bank of Montreal, Chicago Branch
115 South LaSalle Street
Chicago, Illinois 60603
Attention: Ms. Maureen T. Mills
Telephone: (312) 750-4388
Telecopy: (312) 750-4352

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CORESTATES BANK, N.A.

By: /s/ Mark A. Duffy

Name: Mark A. Duffy
Title: Vice President

Applicable Lending Office and Address
for Notices:

CoreStates Bank, N.A.
1339 Chestnut Street
FC 1-8-10-67
Philadelphia, Pennsylvania 19107
Attention: Mr. William J. Lloyd, Jr.
Telephone: (215) 786-4244
Telecopy: (215) 786-6381

DRESDNER BANK, AG, New York Branch and
Grand Cayman Branch

By: /s/ Beverly G. Cason

Name: Beverly G. Cason
Title: Vice President

By: /s/ John Sweeney

Name: John Sweeney
Title: Assistant Vice President

Applicable Lending Office and Address
for Notices:

Dresdner Bank AG, New York Branch and
Grand Cayman Branch
c/o Dresdner Bank AG
333 South Grand Avenue
Suite 1700
Los Angeles, California 90017
Attention: Mr. Vitol Wiacek

Telephone: (213) 630-5420
Telecopy: (213) 473-5450

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FLEET NATIONAL BANK

By: /s/ Eben R. Myrik

Name: Eben R. Myrik
Title: Vice President

Applicable Lending Office and Address
for Notices:

Fleet National Bank
111 Westminster Street
Suite 800
Providence, Rhode Island 02903
Attention: Mr. Randy Myrick
Telephone: (401) 278-3745
Telecopy: (401) 278-5166

KREDIETBANK N.V., GRAND CAYMAN BRANCH

By: _____

Name:
Title:

By: /s/ Michael V. Curran

Name: Michael V. Curran
Title: Vice President

Applicable Lending Office:

Kredietbank N.V., Grand Cayman Branch
125 West 55th Street
10th Floor
New York, New York 10019

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Address for Notices:

Kredietbank N.V., Grand Cayman Branch
c/o Kredietbank N.V.,
New York Branch
125 West 55th Street
10th Floor
New York, New York 10019
Attention: Ms. Christine Park
Telephone: (212) 541-0707
Telecopy: (212) 956-5580

with a copy to:

Kredietbank N.A., Los Angeles
Representative Office
550 South Hope Street
Suite 1775
Los Angeles, California 90071
Attention: Ms. Jean Frammolino
Telephone: (213) 624-0401
Telecopy: (213) 629-5801

EXHIBIT A - AUTHORIZATION LETTER

_____, 1997

Union Bank of Switzerland
 (New York Branch)
 299 Park Avenue
 New York, New York 10171

Re: Second Amended and Restated Revolving Loan Agreement dated as of _____, 1997 (the "Loan Agreement"; capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement) among us, as Borrower, the Banks named therein, and you, as Administrative Agent for said Banks

Gentlemen:

In connection with the captioned Loan Agreement, we hereby designate any of the following persons to give to you instructions, including notices required pursuant to the Loan Agreement, orally, by telephone or teleprocess, or in writing:

[NAMES]

Instructions may be honored on the oral, telephonic, teleprocess or written instructions of anyone purporting to be any one of the above designated persons even if the instructions are for the benefit of the person delivering them. We will furnish you with written confirmation of each such instruction signed by any person designated above (including any telecopy which appears to bear the signature of any person designated above) on the same day that the instruction is provided to you, but your responsibility with respect to any instruction shall not be affected by your failure to receive such confirmation or by its contents.

Without limiting the foregoing, we hereby unconditionally authorize any one of the above-designated persons to execute and submit requests for advances of proceeds of the Loans (including the Initial Advance) and notices of Elections, Conversions and Continuations to you under the Loan Agreement with the identical force and effect in all respects as if executed and submitted by us.

You shall be fully protected in, and shall incur no liability to us for, acting upon any instructions which you in good faith believe to have been given by any person designated above, and in no event shall you be liable for special, consequential or punitive damages. In addition, we agree to hold you and your agents harmless from any and all liability, loss and

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expense arising directly or indirectly out of instructions that we provide to you in connection with the Loan Agreement except for liability, loss or expense occasioned by your gross negligence or willful misconduct.

Upon notice to us, you may, at your option, refuse to execute any instruction, or part thereof, without incurring any responsibility for any loss, liability or expense arising out of such refusal if you in good faith believe that the person delivering the instruction is not one of the persons designated above or if the instruction is not accompanied by an authentication method that we have agreed to in writing.

We will promptly notify you in writing of any change in the persons designated above and, until you have actually received such written notice and have had a reasonable opportunity to act upon it, you are authorized to act upon instructions, even though the person delivering them may no longer be authorized.

Very truly yours,

BAY APARTMENT COMMUNITIES, INC.

By: _____
 Name:
 Title:

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EXHIBIT B - RATABLE LOAN NOTE

\$ _____

New York, New York
_____, 199_

For value received, Bay Apartment Communities, Inc., a Maryland corporation ("Borrower"), hereby promises to pay to the order of _____ or its successors or assigns (collectively, the "Bank"), at the principal office of Union Bank of Switzerland (New York Branch) located at 299 Park Avenue, New York, New York 10171 ("Administrative Agent") for the account of the Applicable Lending Office of the Bank, the principal sum of _____ Dollars (\$ _____), or if less, the amount loaned by the Bank under its Ratable Loan to Borrower pursuant to the Loan Agreement (as defined below) and actually outstanding, in lawful money of the United States and in immediately available funds, in accordance with the terms set forth in the Loan Agreement. Borrower also promises to pay interest on the unpaid principal balance hereof, for the period such balance is outstanding, in like money, at said office for the account of said Applicable Lending Office, at the time and at a rate per annum as provided in the Loan Agreement. Any amount of principal hereof which is not paid when due, whether at stated maturity, by acceleration, or otherwise, shall bear interest from the date when due until said principal amount is paid in full, payable on demand, at the rate set forth in the Loan Agreement.

The date and amount of each advance of the Ratable Loan made by the Bank to Borrower under the Loan Agreement referred to below, and each payment of said Ratable Loan, shall be recorded by the Bank on its books and, prior to any transfer of this Note (or, at the discretion of the Bank, at any other time), may be endorsed by the Bank on the schedule attached hereto and any continuation thereof.

This Note is one of the Ratable Loan Notes referred to in the Second Amended and Restated Revolving Loan Agreement dated as of _____, 1997 (as the same may be amended from time to time, the "Loan Agreement") among Borrower, the Banks named therein (including the Bank) and Administrative Agent, as administrative agent for the Banks. All of the terms, conditions and provisions of the Loan Agreement are hereby incorporated by reference. All capitalized terms used herein and not defined herein shall have the meanings given to them in the Loan Agreement.

The Loan Agreement contains, among other things, provisions for the prepayment of and acceleration of this Note upon the happening of certain stated events.

No recourse shall be had under this Note against Borrower's Principals except as and to the extent set forth in Section 11.02 of the Loan Agreement.

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All parties to this Note, whether principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, protest, notice of protest and notice of dishonor.

This Note shall be governed by the Laws of the State of New York, provided that, as to the maximum lawful rate of interest which may be charged or collected, if the Laws applicable to the Bank permit it to charge or collect a higher rate than the Laws of the State of New York, then such Law applicable to the Bank shall apply to the Bank under this Note.

BAY APARTMENT COMMUNITIES, INC.

By _____ [SEAL]
Name:
Title:

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<TABLE>				
<CAPTION>				
<S>	<C>	<C>	<C>	<C>
Date	Amount of Advance	Amount of Payment	Balance Outstanding	Notation By
</TABLE>				

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EXHIBIT B-1 - BID RATE LOAN NOTE

\$175,000,000

New York, New York
_____, 199_

For value received, Bay Apartment Communities, Inc., a Maryland corporation ("Borrower"), hereby promises to pay to the order of Union Bank of Switzerland (New York Branch) ("Administrative Agent") or its successors or assigns for the account of the respective Banks making Bid Rate Loans or their respective successors or assigns (for the further account of their respective Applicable Lending Offices), at the principal office of Administrative Agent located at 299 Park Avenue, New York, New York 10171, the principal sum of One Hundred Seventy-Five Million Dollars (\$175,000,000), or if less, the amount loaned by said Banks under their respective Bid Rate Loans to Borrower pursuant to the Loan Agreement (as defined below) and actually outstanding, in lawful money of the United States and in immediately available funds, in accordance with the terms set forth in the Loan Agreement. Borrower also promises to pay interest on the unpaid principal balance hereof, for the period such balance is outstanding, in like money, at said office for the account of said Banks for the further account of their respective Applicable Lending Offices, at the times and at the rates per annum as provided in the Loan Agreement. Any amount of principal hereof which is not paid when due, whether at stated maturity, by acceleration, or otherwise, shall bear interest from the date when due until said principal amount is paid in full, payable on demand, at the rate set forth in the Loan Agreement.

The date and amount of each Bid Rate Loan to Borrower under the Loan Agreement referred to below, the name of the Bank making the same, the interest rate applicable thereto and the maturity date thereof (i.e., the end of the Interest Period Applicable thereto) shall be recorded by Administrative Agent on its records and may be endorsed by Administrative Agent on the schedule attached hereto and any continuation thereof.

This Note is the Bid Rate Loan Note referred to in the Second Amended and Restated Revolving Loan Agreement dated as of _____, 1997 (as the same may be amended from time to time, the "Loan Agreement") among Borrower, the Banks named therein and Administrative Agent, as administrative agent for the Banks. All of the terms, conditions and provisions of the Loan Agreement are hereby incorporated by reference. All capitalized terms used herein and not defined herein shall have the meanings given to them in the Loan Agreement.

The Loan Agreement contains, among other things, provisions for the prepayment of and acceleration of this Note upon the happening of certain stated events.

No recourse shall be had under this Note against the Borrower's Principals

except as and to the extent set forth in Section 11.02 of the Loan Agreement.

B-1-1

All parties to this Note, whether principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, protest, notice of protest and notice of dishonor.

This Note shall be governed by the laws of the State of New York, provided that, as to the maximum lawful rate of interest which may be charged or collected, if the laws applicable to a particular Bank permit it to charge or collect a higher rate than the laws of the State of New York, then such law applicable to such Bank shall apply to such Bank under this Note.

BAY APARTMENT COMMUNITIES, INC.

By _____ [SEAL]
Name:
Title:

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<TABLE> <CAPTION> <S>					
Bid Rate Loan #	<C> Bank	<C> Date of Advance	<C> Principal Amount	<C> Interest Rate	<C> Maturity (i.e., Expiration of Interest Period
</TABLE>					

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EXHIBIT C - MATERIAL AFFILIATES

<TABLE> <CAPTION>			
NAME	STATE OF FORMATION	BORROWER'S % AGE INTEREST	PRINCIPAL BUSINESS
<S>			
1. Bay Asset Group, Inc.	<C> Maryland	<C> 100	<C> Owning/Managing Apartments
2. Bay Waterford, Inc.	Maryland	100	Owning/Managing Apartments
3. Bay Development Partners, Inc.	Maryland	100	Owning/Managing Apartments
</TABLE>			

EXHIBIT D - SOLVENCY CERTIFICATE

The person executing this certificate is the _____ of Bay Apartment Communities, Inc., a Maryland corporation ("Borrower"), and is familiar with its properties, assets and businesses, and is duly authorized to execute this certificate on behalf of Borrower pursuant to Section 4.01(7) of the Second Amended and Restated Revolving Loan Agreement dated the date hereof (the "Loan Agreement") among Borrower, the banks party thereto (each a "Bank" and collectively, the "Banks") and Union Bank of Switzerland (New York Branch), as administrative agent for the Banks (in such capacity, together with its successors in such capacity, "Administrative Agent"). In executing this Certificate, such person is acting solely in his or her capacity as the _____ of Borrower, and not in his or her individual capacity. Unless otherwise defined herein, terms defined in the Loan Agreement are used herein as therein defined.

The undersigned further certifies that he or she has carefully reviewed the Loan Agreement and the other Loan Documents and the contents of this Certificate and, in connection herewith, has made such investigation and inquiries as he or she deems reasonably necessary and prudent therefor. The undersigned further certifies that the financial information and assumptions which underlie and form the basis for the representations made in this Certificate were reasonable when made and were made in good faith and continue to be reasonable as of the date hereof.

The undersigned understands that Administrative Agent, Co-Agents and the Banks are relying on the truth and accuracy of this Certificate in connection with the transactions contemplated by the Loan Agreement.

The undersigned certifies that Borrower is Solvent.

IN WITNESS WHEREOF, the undersigned has executed this Certificate on _____, 1997.

Name: _____

Name:

EXHIBIT E - ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of _____, 199_, among [insert name of assigning Bank] ("Assignor"), [insert name of Assignee] ("Assignee"), Bay Apartment Communities, Inc., a Maryland corporation ("Borrower") and Union Bank of Switzerland (New York Branch), as administrative agent for the Banks referred to below (in such capacity, together with its successors in such capacity, the "Administrative Agent").

PRELIMINARY STATEMENT

1. This Assignment and Assumption Agreement (this "Agreement") relates to the Second Amended and Restated Revolving Loan Agreement dated _____, 1997 (as the same may be amended from time to time, the "Loan Agreement") among Borrower, the banks party thereto (each a "Bank" and, collectively, the "Banks") and the Administrative Agent. All capitalized terms not otherwise defined herein shall have the respective meanings set forth in the Loan Agreement.

2. Subject to the terms and conditions set forth in the Loan Agreement, Assignor has made a Loan Commitment to Borrower in an aggregate principal amount of _____ Dollars (\$_____) ("Assignor's Loan Commitment").

3. The aggregate outstanding principal amount of Assignor's Ratable Loan made pursuant to Assignor's Loan Commitment at commencement of business on the date hereof is _____ Dollars (\$_____). The aggregate outstanding principal amount of Bid Rate Loans made by Assignor to Borrower at the commencement of business on the date hereof is _____ Dollars (\$_____).

4. Assignor desires to assign to Assignee (a) all of the rights of Assignor under the Loan Agreement in respect of a portion of its (i) Ratable Loan and Loan Commitment thereunder in an amount equal to _____ Dollars (\$_____) and (ii) Bid Rate Loans in an amount equal to _____ Dollars (\$_____) (collectively, the "Assigned Loan and Commitment"); and Assignee desires to accept assignment of such rights and assume the corresponding obligations from Assignor on such terms.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the parties hereto agree as follows:

SECTION 1. ASSIGNMENT. Assignor hereby assigns and sells to Assignee all of the rights of Assignor under the Loan Agreement in and to the Assigned Loan and Commitment, and Assignee hereby accepts such assignment from Assignor and assumes all of the obligations of Assignor under the Loan Agreement with respect to the Assigned Loan and Commitment. Upon the execution and delivery hereof by Assignor, Assignee, Borrower and the Administrative Agent and the payment of the amount specified in Section 2 hereof required to

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be paid on the date hereof, (1) Assignee shall, as of the commencement of business on the date hereof, succeed to the rights and obligations of a Bank under the Loan Agreement with a Loan and a Loan Commitment in amounts equal to the Assigned Loan and Commitment, and (2) the Loan and Loan Commitment of Assignor shall, as of the commencement of business on the date hereof, be reduced correspondingly and Assignor released from its obligations under the Loan Agreement to the extent such obligations have been assumed by Assignee. The assignment provided for herein shall be without recourse to Assignor.

SECTION 2. PAYMENTS. As consideration for the assignment and sale contemplated in Section 1 hereof, Assignee shall pay to Assignor on the date hereof in immediately available funds an amount equal to _____ Dollars (\$_____) [insert the amount of that portion of Assignor's Loan being assigned]. It is understood that any fees paid to Assignor under the Loan Agreement are for the account of Assignor. Each of Assignor and Assignee hereby agrees that if it receives any amount under the Loan Agreement which is for the account of the other party hereto, it shall receive the same for the account of such other party to the extent of such other party's interest therein and shall promptly pay the same to such other party.

SECTION 3. [CONSENT OF BORROWER AND ACKNOWLEDGMENT BY THE ADMINISTRATIVE AGENT;] EXECUTION AND DELIVERY OF NOTE. [This Agreement is conditioned upon the consent of Co-Agents and, provided there exists no Event of Default, Borrower and acknowledgment by the Administrative Agent pursuant to Section 12.05 of the Loan Agreement. The execution of this Agreement by Borrower and the Administrative Agent is evidence of this consent and acknowledgment, respectively. ONLY NECESSARY IF ASSIGNEE IS NOT A MAJORITY OWNED SUBSIDIARY OF A BANK OR OF THE PARENT OF A BANK] Pursuant to Section 12.05 of the Loan Agreement, Borrower has agreed to execute and deliver Ratable Loan Notes payable to the respective orders of Assignee and Assignor to evidence the assignment and assumption provided for herein.

SECTION 4. NON-RELIANCE ON ASSIGNOR. Assignor makes no representation or warranty in connection with, and shall have no responsibility with respect to, the solvency, financial condition, or statements of Borrower or any other party to any Loan Document, or the validity and enforceability of the obligations of Borrower or any other party to a Loan Document in respect of the Loan Agreement or any other Loan Document. Assignee acknowledges that it has, independently and without reliance on Assignor, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and will continue to be responsible for making its own independent appraisal of the business, affairs and financial condition of Borrower and the other parties to the Loan Documents.

SECTION 5. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

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SECTION 6. COUNTERPARTS. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 7. CERTAIN REPRESENTATIONS AND AGREEMENTS BY ASSIGNEE. Reference is made to Section 10.13 of the Loan Agreement. Assignee hereby represents that it is entitled to receive any payments to be made to it under the Loan Agreement or hereunder without the withholding of any tax and agrees to furnish the evidence of such exemption as specified therein and otherwise to comply with the provisions of said Section 10.13.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their duly authorized officers as of the date first above written.

[NAME OF ASSIGNOR]

By _____
Name:
Title:

[NAME OF ASSIGNEE]

By _____
Name:
Title:

Applicable Lending Office:
Address for Notices:

[Assignee]
[Address]
Attention: _____
Telephone: (____) _____
Telecopy: (____) _____

BAY APARTMENT COMMUNITIES, INC.

By _____
Name:
Title:

UNION BANK OF SWITZERLAND
(New York Branch)
(as Co-Agent and Administrative
Agent)

By _____
Name:
Title:

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By _____
Name:
Title:

By _____
Name:
Title:

UNION BANK OF CALIFORNIA, N.A.
(as Co-Agent)

By _____
Name:
Title:

By _____
Name:
Title:

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EXHIBIT G-1 - BID RATE QUOTE REQUEST

[Date]

To: Union Bank of Switzerland (New York Branch), as Administrative Agent (the "Administrative Agent")

From: [Borrower]

Re: Second Amended and Restated Revolving Loan Agreement (the "Loan Agreement") dated as of _____, 1997 among [Borrower], the Banks parties thereto and the Administrative Agent

We hereby give notice pursuant to Section 2.02 of the Loan Agreement that we request Bid Rate Quotes for the following proposed Bid Rate Loans:

Date of Borrowing: _____

PRINCIPAL AMOUNT(1)	INTEREST PERIOD(2)
\$	

Such Bid Rate Quotes should offer a LIBOR Bid Margin.

Terms used herein have the meanings assigned to them in the Loan Agreement.

[BORROWER]

By _____
Name:
Title:

- -----

(1) Subject to the minimum amount and other requirements set forth in Section 2.02(a) of the Loan Agreement.

(2) Subject to the provisions of the definition of "Interest Period" in the Loan Agreement.

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EXHIBIT G-2 - INVITATION FOR BID RATE QUOTES

To: [Bank]
Re: Invitation for Bid Rate Quotes to [Borrower] ("Borrower")

Pursuant to Section 2.02 of the Second Amended and Restated Revolving Loan Agreement dated as of _____, 1997 among Borrower, the Banks parties thereto and the undersigned, as Administrative Agent, we are pleased on behalf of Borrower to invite you to submit Bid Rate Quotes to Borrower for the following proposed Bid Rate Loans:

Date of Borrowing: _____

PRINCIPAL AMOUNT	INTEREST PERIOD
\$	

Such Bid Rate Quotes should offer a LIBOR Bid Margin.

Please respond to this invitation by no later than 2:00 P.M. (New York time) on [date].

UNION BANK OF SWITZERLAND (New
York Branch), as Administrative Agent

By _____
Name:
Title:

By _____
Name:
Title:

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EXHIBIT G-3 - BID RATE QUOTE

To: Union Bank of Switzerland (New York Branch), as Administrative Agent

Re: Bid Rate Quote to [Borrower] ("Borrower") pursuant to the Second Amended
and Restated Revolving Loan Agreement dated _____, 1997 among
Borrower, the Banks party thereto and Administrative Agent (the "Loan
Agreement")

In response to your invitation on behalf of Borrower dated _____,
19__, we hereby make the following Bid Rate Quote on the following terms:

1. Quoting Bank:
2. Person to contact at quoting Bank:
3. Date of borrowing: _____ (1)
4. We hereby offer to make Bid Rate Loan(s) in the following principal
amounts, for the following Interest Periods and at the following rates:

Principal Amount(2)	Interest Period(3)	LIBOR Bid Margin(4)
\$		
\$		

[Provided, that the aggregate principal amount of Bid Rate Loans for which
the above offers may be accepted shall not exceed \$_____.]

5. LIBOR Reserve Requirement, if any: _____.
6. Terms used herein have the meanings assigned to them in the Loan Agreement.

- - - - -

- (1) As specified in the related Invitation for Bid Rate Quotes.
- (2) Principal amount bid for each Interest Period may not exceed principal
amount requested. Specify aggregate limitation if the sum of the
individual offers exceeds the amount the Bank is willing to lend. Amounts
of bids are subject to the requirements of Section 2.02(c) of the Loan
Agreement.
- (3) No more than three (3) bids are permitted for each Interest Period.
- (4) Margin over or under the LIBOR Interest Rate determined for the
applicable Interest Period. Specify percentage (to the nearest 1/1,000 of
1%) and specify whether "PLUS" or "MINUS".

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Very truly yours,

[NAME OF BANK]

Date: _____

By: _____
Authorized Officer

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EXHIBIT G-4 - ACCEPTANCE OF BID RATE QUOTE

To: Union Bank of Switzerland (New York Branch), as Administrative Agent (the "Administrative Agent")

From: [Borrower]

Re: Second Amended and Restated Revolving Loan Agreement (the "Loan Agreement") dated as of _____, 1997 among [Borrower], the Banks parties thereto and the Administrative Agent

We hereby accept the offers to make Bid Rate Loan(s) set forth in the Bid Rate Quote(s) identified below:

Bank	Date of Bid Rate Quote	Principal Amount	Interest Period	LIBOR Bid Margin
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Very truly yours,

[BORROWER]

By _____
Name:
Title:

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EXHIBIT H - DESIGNATION AGREEMENT

Reference is made to that certain Second Amended and Restated Revolving Loan Agreement dated as of _____, 1997 (as amended, supplemented or otherwise modified from time to time, the "Loan Agreement") among Bay Apartment Communities, Inc., a Maryland corporation, the banks parties thereto, and Union Bank of Switzerland (New York Branch), as administrative agent for said banks. Terms defined in the Loan Agreement not otherwise defined herein are used herein with the same meaning.

[BANK] ("Designor") and _____, a _____
("Designee") agree as follows:

1. Designor hereby designates Designee, and Designee hereby accepts such designation, to have a right to make Bid Rate Loans pursuant to Section 2.02 of the Loan Agreement. Any assignment by Designor to Designee of its rights to make a Bid Rate Loan pursuant to such Section shall be effective at the time of the funding of such Bid Rate Loan and not before such time.

2. Except as set forth in Section 6 below, Designor makes no representation or warranty and assumes no responsibility pursuant to this Designation Agreement with respect to (a) any statements, warranties or representations made in or in connection with any Loan Document or the execution, legality, validity, enforceability, genuineness, sufficiency or value of any Loan Document or any other instrument and document furnished pursuant thereto and (b) the financial condition of Borrower or the performance or observance by Borrower of any of its obligations under any Loan Document or any other instrument or document furnished pursuant thereto.

3. Designee (a) confirms that it has received a copy of each Loan Document, together with copies of such financial statements and other documents and information as it has deemed appropriate to make its own credit analysis and

decision to enter into this Designation Agreement; (b) agrees that it will independently and without reliance upon Administrative Agent, Designor or any other Bank, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under any Loan Document; (c) represents that it is a Designated Lender; (d) appoints and authorizes Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under any Loan Document as are delegated to Administrative Agent by the terms thereof, together with such powers and discretion as are reasonably incidental thereto; and (e) agrees that it will perform in accordance with their terms all of the obligations which by the terms of any Loan Document are required to be performed by it as a Bank.

4. Designee hereby appoints Designor as Designee's agent and attorney-in-fact, and grants to Designor an irrevocable power of attorney, to receive payments made for the

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benefit of Designee under the Loan Agreement, to deliver and receive all communications and notices under the Loan Agreement and other Loan Documents and to exercise on Designee's behalf all rights to vote and to grant and make approvals, waivers, consents or amendments to or under the Loan Agreement or other Loan Documents. Any document executed by Designor on Designee's behalf in connection with the Loan Agreement or other Loan Documents shall be binding on Designee. Borrower, Administrative Agent and each of the Banks may rely on and are beneficiaries of this Designation Agreement.

5. Following the execution of this Designation Agreement by Designor and Designee, it will be delivered to Administrative Agent for acceptance by Administrative Agent. The effective date for this Designation Agreement (the "Effective Date") shall be the date of acceptance hereof by Administrative Agent.

6. Designor unconditionally agrees to pay or reimburse Designee and save Designee harmless against all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed or asserted by any of the parties to the Loan Documents against Designee, in its capacity as such, in any way relating to or arising out of this Agreement or any other Loan Documents or any action taken or omitted by the Designee hereunder or thereunder, PROVIDED that Designor shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements if the same results from Designee's gross negligence or willful misconduct.

7. As of the Effective Date, Designee shall be a party to the Loan Agreement with a right to make Bid Rate Loans as a Bank pursuant to Section 2.02 of the Loan Agreement and the rights and obligations of a Bank related thereto; PROVIDED, HOWEVER, that Designee shall not be required to make payments with respect to such obligations except to the extent of excess cash flow of such Designee which is not otherwise required to repay obligations of such Designated Lender which are then due and payable. Notwithstanding the foregoing, Designor, as administrative agent for Designee, shall be and remain obligated to Borrower, Administrative Agent and the Banks for each and every of the obligations of Designee and its Designor with respect to the Loan Agreement, including, without limitation, any indemnification obligations under Section 10.05 of the Loan Agreement.

8. This Designation Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

9. This Designation Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

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IN WITNESS WHEREOF, Designor and Designee have executed and delivered this Designation Agreement as of the date first set forth above.

[DESIGNOR]

By _____
Name:
Title:

[DESIGNEE]

By _____
Name:
Title:

Applicable Lending Office and Address
for Notices:

Attention: _____
Telephone: () _____
Telecopy: () _____

ACCEPTED AS OF THE ____ DAY OF
_____, 199__.

UNION BANK OF SWITZERLAND, (New York
Branch), as Administrative Agent

By _____
Name:
Title:

By _____
Name:
Title:

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SCHEDULE A

<TABLE>
<CAPTION>

BANK	OUTSTANDING PRINCIPAL UNDER RATABLE LOAN NOTE		AMOUNT OF EQUALIZATION PAYMENT FROM UBS	OUTSTANDING PRINCIPAL UNDER RATABLE LOAN NOTE	
	PRIOR TO INCREASE IN TOTAL LOAN COMMITMENT			SUBSEQUENT TO INCREASE IN TOTAL LOAN COMMITMENT	
<S>	<C>		<C>	<C>	
UBS	\$5,025,000			\$17,228,571.43	
UBC	5,025,000		2,153,571.43	2,871,428.57	
First Chicago	4,187,500		1,794,642.86	2,392,857.14	
Commerzbank	3,350,000		1,435,714.29	1,914,285.71	
Bank of Montreal	3,350,000		1,435,714.29	1,914,285.71	
Corestates	2,931,250		1,256,250.00	1,675,000.00	
Dresdner	2,931,250		1,256,250.00	1,675,000.00	
Fleet	3,182,500		1,363,928.57	1,818,571.43	
Kredietbank	3,517,500		1,507,500.00	2,010,000.00	
TOTAL	\$33,500,000		\$12,203,571.44	\$33,500,000.00	

</TABLE>

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CONSENT OF INDEPENDENT ACCOUNTANTS

We consent to the incorporation by reference in the registration statements of Bay Apartment Communities, Inc. on Form S-8 (File No. 333-16809), Form S-8 (File No. 333-16837), Form S-3 (File No. 333-16647), Form S-3 (File No. 333-15407), Form S-3 (File No. 333-39037), and Form S-3 (File No. 333-41511) of our report dated November 14, 1997, on our audit of the Historical Summary of Revenues and Direct Operating Expenses of Arbor Park Apartments for the 12 months ended May 31, 1997, of our report dated November 14, 1997, on our audit of the Historical Summary of Revenues and Direct Operating Expenses of Amberway Apartments for the 12 months ended May 31, 1997, of our report dated November 14, 1997, on our audit of the Historical Summary of Revenues and Direct Operating Expenses of Mission Bay Club Apartments for the 12 months ended May 31, 1997, and of our report dated November 14, 1997, on our audit of the Historical Summary of Revenues and Direct Operating Expenses of Pacifica Club Apartments for the 12 months ended May 31, 1997, of our report dated November 14, 1997, on our audit of the Historical Summary of Revenues and Direct Operating Expenses of Westwood Club Apartments for the 12 months ended May 31, 1997, of our report dated December 11, 1997, on our audit of the Historical Summary of Revenues and Direct Operating Expenses of Waterhouse Place Apartments for the year ended December 31, 1996, which reports are included in this Current Report on Form 8-K.

COOPERS & LYBRAND L.L.P.

San Francisco, California
December 15, 1997