

judicial, administrative or otherwise (including any condemnation or similar proceeding), pending or, to Trustor's best knowledge and belief (with not duty of investigation or inquiry), threatened or contemplated against Trustor, Guarantor, any of their respective partners (if Trustor or Guarantor is a general partnership), general partners (if Trustor or Guarantor is a limited partnership), managers or managing members (if Trustor or Guarantor is a limited liability company), as the case may be, (each such general partner, manager or managing member being sometimes referred to as the "Governing Entity"), or any Affiliate (defined below) of Trustor, Guarantor or either of their respective Governing Entities, or any person who owns or controls, directly or indirectly, ten percent (10%) or more of the beneficial ownership interests of Trustor, Guarantor or either of their respective Governing Entities, or against or affecting any portion of the Trust Property, which has not been disclosed by Trustor in writing to Beneficiary, (ii) Trustor is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code and the related Treasury Department regulations, (iii) during the ten (10) year period preceding the date hereof, no petition in bankruptcy has been filed by or against Trustor, its Governing Entity or Guarantor, or any Affiliate of Trustor, its Governing Entity or Guarantor, or any person who owns or controls, directly or indirectly, ten percent (10%) or more of the beneficial ownership interests of Trustor, its Governing Entity or Guarantor, (iv) Trustor has not entered into the Loan or any of the Loan Documents with the actual intent to hinder, delay, or defraud any creditor, (v) Trustor has received reasonably equivalent value in exchange for its obligations under the Loan Documents, (vi) giving effect to the transactions contemplated by the Loan Documents, the fair saleable value of the Trustor's assets exceeds and will, immediately following the execution and delivery of the Loan Documents, exceed Trustor's total liabilities, including, without limitation, subordinated, unliquidated, disputed or contingent liabilities, (vii) Trustor does not have any known material contingent liabilities, (viii) Trustor does not have any material financial obligation under any indenture, mortgage, deed of trust, loan agreement, or other agreement or instrument to which Trustor is a party or by which Trustor or any of the Trust Property is otherwise bound, other than obligations incurred in the ordinary course of the operation of the Trust Property and other than obligations under the Loan and the Loan Documents, and (ix) Trustor has not borrowed or received other debt financing that has not been heretofore paid in full (or will be paid in full as of the date hereof from the proceeds of the Loan).

(i) Trustor represents and warrants to Beneficiary that to Trustor's best knowledge and belief the Trust Property is, and Trustor covenants and agrees to cause the Trust Property at all times to remain, in compliance with all statutes, ordinances, regulations and other governmental or quasi-governmental requirements and private covenants now or hereafter relating to the ownership, construction, use or operation of the Trust Property.

(j) The Property Management Agreement, dated September 8, 2005 (the "Management Agreement") between Trustor and ZELL Commercial Real Estate Services, Inc. (the "Property Manager") pursuant to which Property Manager operates the