

PRE-NEGOTIATION AGREEMENT

[DATE]

Via email or regular mail

[BORROWER]

[ADDRESS]

[CITY], [STATE] [ZIP]

Re: Account Number: [LOAN NUMBER]: Promissory note dated [DATE OF NOTE] in the original principal amount of \$_____ (the "Loan") and secured by certain real property and improvements known as [NAME OF PROPERTY] and located in [LOCATION OF PROPERTY] (the "Property"); which note is currently held by [LENDER] ("Lender"), executed by [BORROWER]; and further guaranteed by [GUARANTOR] (collectively hereinafter "Borrower").

Dear Mr. [NAME]:

Borrower has requested to meet and/or discuss with Lender in order to address the problems associated with this Loan and a potential workout/restructuring plan for the Loan. In order to be prepared to meet and/or discuss with you, Lender will need to be furnished as soon as possible with the items detailed on the attached list by [DATE] at 3:00 p.m.

Please be advised that Lender generally pursues "dual tracks" whereby Lender initiates the pursuit of the rights and remedies under the Loan documents while Lender evaluates and negotiates a possible workout/restructuring of the Loan. Accordingly, the note has been [*or may be*] accelerated and the holding of discussions with Borrower (a) does not waive any of those rights of the Lender due to the default by the Borrower; (b) does not constitute an agreement to refrain from or delay the exercise of any of the noteholder's rights or remedies; nor (c) should it be considered an agreement by Situs to any proposals submitted by or on behalf of the Borrower.

Pursuant to the foregoing, Lender is willing to hold discussion with Borrower upon the following terms and conditions:

1. Rights and Remedies Not Affected. Borrower hereby acknowledges that Borrower is in default under the Loan Documents (defined at the end of this paragraph) and that Lender is entitled to exercise any and all rights and remedies set forth in the Loan Documents, at law or in equity. Holding discussions with the Borrower, or any correspondence among Borrower and Lender shall not in any way affect or impair any rights or remedies Borrower or Lender may have, nor shall any of the foregoing be deemed to be a waiver of, or preclude, any rights or remedies of either Lender or Borrower under the Loan Documents or at law or equity, or from commencing the exercise of such rights or remedies. As used herein, Loan Documents shall mean all documents executed by Borrower in connection with the Loan including without limitation, the note and deed of trust [*or Mortgage*].
2. Only Written Agreements and Amendments. The contemplated discussions may be lengthy and complex. While the parties may reach agreement on one or more preliminary issues, no party shall be bound by any agreement, verbal or written, on individual issues, and no rights or liabilities, either express or implied, shall

arise on the part of the parties until and unless (a) agreement is reached on all issues and (b) a written agreement on all issues has been prepared, negotiated, agreed to, executed and delivered by all parties thereto. Agreement with regard to any such documents and all terms contained therein shall be within the sole discretion of each party and no party shall have any liability for failing to reach any such agreement. Borrower hereby waives reliance on any alleged oral modifications of the Loan Documents or the matters, conditions, or events related to such alleged oral modifications.

3. Confidential and Privileged. The Borrower agrees that any discussions relating to the Loan are confidential and privileged and shall not be revealed to any third party nor shall they be used or referred to in any litigation which may ensue by or among the Parties.
4. Preliminary Information. Borrower further agrees to provide Lender with all documentation and information regarding the Loan, the Property, the Borrower or any Guarantors as may be requested by them in connection with the discussions.
5. Termination of Settlement Discussions. Either party to this agreement may in their sole and absolute discretions, unilaterally discontinue the discussions at any time for any reason without any liability whatsoever to the parties by reason of any such discontinuation or termination.
6. Loan Documents Still in Force. Notwithstanding any other provisions of this agreement, or any claims of the parties to the contrary, the Loan Documents are in full force and effect, and shall remain in full force and effect unless and until modified by a written document which complies with the provisions of paragraph 2 above.
7. Entire Agreement. This agreement constitutes the entire agreement between Situs and the Borrower concerning its subject matter and supersedes any prior or contemporaneous representations or agreements not contained herein and this agreement may only be amended or modified by an agreement in writing executed by all parties.
8. Captions. The captions used herein are for convenience of reference only and do not define or limit the scope, content, or intent of this Agreement.
9. Counterparts. This agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be deemed one instrument.

If you are in agreement with the foregoing, please execute a copy of this letter and return the same to the undersigned within five (5) banking days from the date of your receipt. No discussions shall be held until the undersigned are in receipt of this letter executed by the Borrower.

Sincerely,

[LENDER]

By: _____

Name: _____

Title: _____

SIGNATURE PAGES FOLLOW ON NEXT PAGE

ACKNOWLEDGED AND AGREED TO BY THE UNDERSIGNED THIS _____
DAY OF _____, _____.

[BORROWER] _____

By: _____

Name: _____

Title: _____

[GUARANTOR(S) AS NEEDED]

[GUARANTOR] _____

By: _____

Name: _____

Title: _____

STATE OF _____ §

COUNTY OF _____ §

_____ §

The foregoing instrument was acknowledged before me this the _____ day of
_____, 20 _____, by
_____.

NOTARY PUBLIC