

Trust and the Adviser or any Affiliate of the Adviser of participations in a loan or other investment shall not be deemed to constitute a purchase of property by the Trust from the Adviser or an Affiliate of the Adviser for the purposes hereof, provided that the terms, other than the size of the participation, are not less favorable to the Trust than to such other Person.

*"Construction Loans"* shall mean Mortgage Loans made to finance the construction of buildings and other improvements on land and may include the financing of all or part of the cost of the acquisition of such land (including leaseholds therein).

*"Declaration of Trust"* shall mean this Declaration of Trust as amended, restated or modified from time to time. References in this Declaration of Trust to "Declaration", "hereof", "herein" and "hereunder" shall be deemed to refer to this Declaration of Trust and shall not be limited to the particular text, article or section in which such words appear.

*"Development Loans"* shall mean Mortgage Loans made to finance the development of land into a site or sites suitable for the construction of improvements thereon or suitable for other residential, recreational, commercial, industrial or public uses and may include the financing of all or part of the cost of the acquisition of such land (including leaseholds therein).

*"FHA"* shall mean the Federal Housing Administration and any successor thereto.

*"First Mortgage"* shall mean a Mortgage which takes priority or precedence over all other charges or encumbrances upon the Real Property, other than a leasehold interest therein, and which must be satisfied before such other charges are entitled to participate in the proceeds of any sale or other disposition of such Real Property. However, such priority shall not be deemed to be abrogated by liens for taxes, assessments which are not due and delinquent, leases, mechanics' and materialmen's liens for work performed and materials furnished and other claims normally deemed in the same locality in which the Real Property is located not to abrogate the priority of a first mortgage.

*"First Mortgage Loans"* shall mean Mortgage Loans secured or collateralized by First Mortgages.

*"Government Related Obligations"* shall mean obligations guaranteed or insured by Government National Mortgage Association or any other federal, state or local governmental agency or instrumentality or obligations based on or backed by a specific mortgage or pool of mortgages or other investments insured or guaranteed by FHA, the Veterans Administration or any other federal, state or local governmental agency or instrumentality.

*"Junior Mortgage"* shall mean a Mortgage which (1) has the same priority or precedence over all charges or encumbrances upon Real Property as that required for a First Mortgage except that it is subject to the priority of one or more other Mortgages and (2) must be satisfied before such other charges or encumbrances (other than prior Mortgages) are entitled to participate in the proceeds of any sale or other disposition of such Real Property.

*"Junior Mortgage Loans"* shall mean Mortgage Loans secured or collateralized by Junior Mortgages.

*"Mortgage Loans"* shall mean notes, debentures, bonds and other evidences of indebtedness or obligations which are negotiable or non-negotiable and which are secured or collateralized by Mortgages.

*"Mortgages"* shall mean mortgages, deeds of trust or other security interests in Real Property or on rights or interests, including leasehold interests, in Real Property.

*"Net Assets"* shall mean the Total Assets of the Trust after deducting therefrom any liabilities of the Trust.

*"Non-Recourse Indebtedness"* shall mean indebtedness of the Trust incurred in connection with the acquisition of any asset wherein the liability of the Trust is limited to the asset acquired (including any increments or additions thereto) and the income and proceeds attributable thereto and which does not represent a general obligation of the Trust.