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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 8-K**

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**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934**

**Date of report (Date of earliest event reported): July 8, 2013**

**Commission File Number 1-13610**

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**PMC COMMERCIAL TRUST**

(Exact name of registrant as specified in its charter)

**TEXAS**

(State or other jurisdiction  
of incorporation or organization)

**17950 Preston Road, Suite 600,  
Dallas, TX 75252**

(Address of principal executive offices)

**75-6446078**

(I.R.S. Employer  
Identification No.)

**(972) 349-3200**

(Registrant's telephone number)

Former name, former address and former fiscal year, if changed since last report: NONE

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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## Item 1.01 Entry into a Material Definitive Agreement

On July 8, 2013, PMC Commercial Trust, a Texas real estate investment trust (the “**Company**”), entered into an Agreement and Plan of Merger (the “**Merger Agreement**”) with CIM Urban REIT, LLC, a Delaware limited liability company (“**CIM**”), CIM Merger Sub, LLC, a Delaware limited liability company and wholly-owned subsidiary of CIM (“**CIM Merger Sub**”), and Southfork Merger Sub, LLC, a Delaware limited liability company and wholly-owned subsidiary of the Company (“**Company Merger Sub**”). The Merger Agreement provides for the merger of CIM Merger Sub with and into Company Merger Sub (the “**Merger**”), with Company Merger Sub remaining as the surviving entity (the “**Surviving Entity**”). The board of trust managers of the Company (the “**Board**”) has by unanimous vote, and the Director of CIM has, approved the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement (collectively, the “**Transactions**”).

Pursuant to the terms and subject to the conditions set forth in the Merger Agreement, prior to the time the Merger becomes effective (the “**Effective Time**”), CIM will contribute to CIM Merger Sub all of the limited partnership interests in CIM Urban Partners L.P. (the “**CIM Partnership**”) and the Company will contribute all of its assets and the capital stock of its subsidiaries to Company Merger Sub. Immediately prior to the Effective Time, Urban Partners GP, LLC (“**Urban GP**”) (a wholly-owned subsidiary of CIM, that is managed by an affiliate of CIM) will be admitted to CIM Partnership as a successor general partner.

At the Effective Time, the separate existence of CIM Merger Sub shall cease, and all equity interests in CIM Merger Sub held by CIM will be cancelled and converted automatically into approximately 22.0 million common shares of beneficial interest, par value \$0.01 per share, of the Company (the “**Trust Common Shares**”) and approximately 65.0 million convertible preferred shares of beneficial interest, par value, \$0.01 per share, of the Company (the “**Trust Preferred Shares**”) with the terms set forth in the Statement of Designation for Trust Preferred Shares (as defined below). Simultaneously with the Effective Time, CIM Urban Partners GP, LLC (“**CIM GP**”) will contribute its general partnership interests in the CIM Partnership to the Surviving Entity (the “**GP Contribution**”), and CIM will contribute its equity interests in Urban GP to the Surviving Entity (the “**Urban GP Contribution**”), each in exchange for a number of Trust Common Shares and Trust Preferred Shares to be determined by CIM that will comprise a part of the Trust Common Shares and Trust Preferred Shares issued in connection with the Merger (such issuance of the Trust Common Shares and Trust Preferred Shares to CIM and CIM GP pursuant to the Merger, the GP Contribution and the Urban GP Contribution, collectively, the “**Trust Common and Preferred Shares Issuance**”).

The Company will declare a dividend, payable to each shareholder of record on the last business day prior to the Effective Time, in an amount equal to (a) \$5.50 per Trust Common Share plus (b) the accrued portion of the Company’s regular quarterly dividend plus (c) any dividends attributable to the exercise of each outstanding option to purchase Trust Common Shares (each, a “**Trust Option**”) prior to the Effective Time that is outstanding on the date of the Merger Agreement (the “**Closing Dividend**”), which Closing Dividend will be payable on the 10th business day after the Effective Time.

As of the Effective Time of the Merger, each Trust Option shall become fully exercisable and each Trust Common Share subject to forfeiture or vesting conditions shall no longer be subject to any such forfeiture or vesting condition and, in connection with Trust’s declaration of the Closing Dividend, the Company’s Compensation Committee may reduce the exercise price of each Trust Option by up to \$5.50 per share.

The completion of the Merger is subject to various conditions, including, among other things (i) the approval by the Company’s shareholders of the Trust Common and Preferred Shares Issuance (the “**Company Shareholder Approvals**”), (ii) the Company’s Registration Statement on Form S-4 registering the Trust Common Shares and the Trust Preferred Shares to be issued as consideration for the Transactions having been declared effective by the Securities and Exchange Commission (the “**SEC**”), (iii) a national securities exchange mutually acceptable to the parties having approved the listing of the Trust Common Shares and the Trust Preferred Shares, (iv) obtaining certain governmental and third party approvals and consents and (v) receiving opinions of counsel to CIM and the Company regarding certain tax matters.

The Company and CIM have made certain customary representations, warranties and covenants in the Merger Agreement. Among other things, from the date of the Merger Agreement to the Effective Time, (i) CIM is obligated to use commercially reasonable efforts to cause the CIM Partnership and the other CIM subsidiaries to carry on its business in the ordinary course consistent with past practice and (ii) the Company and its subsidiaries (collectively, the “**Company Subsidiaries**”) must carry on their business in the ordinary course consistent with past practice. Each of the Company and CIM is also required to use all commercially reasonable efforts to cause the Merger and the other Transactions to be consummated. In addition, subject to certain exceptions, the Merger Agreement requires the Company (i) to call and hold a special meeting of its shareholders and, subject to certain exceptions, for the Board to recommend that its shareholders approve the Trust Common and Preferred Shares Issuance and (ii) to prepare and submit to a national securities exchange mutually acceptable to the Company and CIM a listing application covering the Trust Common Shares and Trust Preferred Shares and, prior to the Effective Time, to use commercially reasonable efforts to have such national securities exchange approve for listing the Trust Common Shares and Trust Preferred Shares. Also, as soon as practicable following the Effective Time of the Merger, CIM agrees to cause the Company, and the Company agrees to file with the SEC a preliminary proxy statement to solicit proxies from Trust’s shareholders to vote in favor of an increase in the authorized number of Trust Common Shares to 1.0 billion shares and a change in the name of the Company to “CIM Commercial REIT” through an amendment to the Declaration of Trust or reincorporation of the Company from Texas to Maryland (the “**Subsequent Proxy Statement**”), and to call a meeting of the Company’s shareholders for the purpose of obtaining the approval of the Company’s shareholders of the matters set forth in the Subsequent Proxy Statement. CIM and CIM GP also agree to vote their Trust Common Shares and Trust Preferred Shares in favor of the matters set forth in the Subsequent Proxy Statement.

The Merger Agreement provides that the Company and the Company Subsidiaries and their respective representatives (including the Company’s financial advisor, Sandler O’Neill + Partners) will have the right, for 30 days after the date of the Merger Agreement (the “**Go Shop Period**”), to solicit, encourage and negotiate any proposals or offers with respect to a merger, consolidation, business combination, acquisition or similar transaction that would result in a person or group of persons owning more than 20% of the outstanding equity securities of the Company or 20% of the consolidated total assets of the Company and the Company Subsidiaries, in each case other than the Transactions (an “**Acquisition Proposal**”). On the date following the end of the Go Shop Period (the “**No Shop Period Start Date**”), the Company and the Company Subsidiaries and their representatives must cease any discussions or negotiations with any person that may be ongoing with respect to an Acquisition Proposal. From the No Shop Period Start Date until the earlier of the Effective Time or the termination of the Merger Agreement, the Company and the Company Subsidiaries and their Representatives must not (A) initiate, solicit or encourage any inquiries or the making of any proposal or offer that constitutes an Acquisition Proposal, (B) engage in or otherwise participate in any discussions or negotiations regarding, or provide any non-public information or data concerning the Company or the Company Subsidiaries to any Person relating to, any Acquisition Proposal, (C) enter into any agreement or agreement in principle with respect to any Acquisition Proposal, or (D) otherwise knowingly facilitate any effort or attempt to make an Acquisition Proposal. However, if the Company receives an Acquisition Proposal from any person that does not result from a violation of the aforesaid (A) through (D) activities, the Company may provide confidential information to, and engage in discussions and negotiations with, such person if the Board determines that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties and that such Acquisition Proposal is or could result in an Acquisition Proposal (for 75% instead of 20% of the securities or assets of the Company) that is more favorable from a financial point of view to the holders of Trust Common Shares than the Transactions.

The Merger Agreement provides that prior to the time the Company Shareholder Approvals are obtained, the Board may withhold, withdraw, qualify or modify its recommendation that the Company’s shareholders approve the Trust Common and Preferred Shares Issuance only if the Board determines that failure to do so would reasonably be expected to be inconsistent with its fiduciary duties (a “**Change in Recommendation**”), in which event the Board may also terminate the Merger Agreement (a “**Fiduciary Termination**”). However, the Merger Agreement provides that the Board must notify CIM before it makes a Change in Recommendation and negotiate in good faith with CIM to make such changes to the Merger

Agreement as would preclude the Board from effecting a Change in Recommendation or a Fiduciary Termination. The Merger Agreement also provides that if the Board determines that its fiduciary duties so require, the Board may effect a Change in Recommendation after there has been a material event or circumstance relating to the business of the Company that occurs or arises after the date of the Merger Agreement and becomes known to the Board after the date of the Merger Agreement and before the Company Shareholder Approvals are received (an “**Intervening Event**”). However, the Merger Agreement provides that prior to making such a Change in Recommendation in response to an Intervening Event, the Company must notify CIM and negotiate in good faith with CIM to make such changes to the terms of the Merger Agreement as would preclude the Board from effecting such a Change in Recommendation.

The Merger Agreement contains certain termination rights for both the Company and CIM, including, among other bases for termination, if the Merger is not consummated on or before December 31, 2013, if the requisite approval of the shareholders of the Company is not obtained or a governmental order prohibiting the Transactions has become final and unappealable. In addition, the Company may terminate the Merger Agreement if (a) the Company enters into an Alternative Acquisition Agreement with respect to a Superior Proposal (as such terms are defined in the Merger Agreement) and pays CIM the termination fee specified in the following paragraph or (b) there has been a material breach by CIM or CIM Merger Sub. Additionally, CIM may terminate the Merger Agreement if (a) the Board fails to recommend the Transactions or makes a Change of Recommendation, or if the Board approves an Acquisition Proposal, or (b) there has been a material breach by the Company, Company Merger Sub or the Company’s directors, officers or managers.

If (x)(a) the Merger Agreement is terminated by the Company or CIM because (i) the Company Shareholder Approvals have not been obtained by December 31, 2013 or (ii) the Company Shareholder Approvals are not obtained at the Company’s shareholder meeting, or if CIM terminates the Merger Agreement because there has been a material and willful breach by the Company or the Company Merger Sub, (b) any person makes a bona fide Acquisition Proposal (for ownership 50% or more) prior to such termination, and (c) within 12 months after such termination, the Company enters into a definitive agreement or consummates a transaction with respect to such Acquisition Proposal or any other Acquisition Proposal, or (y) if CIM terminates the Merger Agreement because the Board fails to recommend the Transactions, makes a Change of Recommendation, or approves an Acquisition Proposal, or if there has been a material breach by the Company’s directors, officers or managers certain provisions of the Merger Agreement, then the Company must pay CIM a termination fee equal to \$4.0 million plus expense reimbursement of up to \$700,000.

Additionally, if the Company terminates the Agreement in order to enter into an Alternative Acquisition Agreement with respect to a Superior Proposal, then the Company must pay CIM a termination fee equal to \$4.0 million (\$3.0 million if terminated during the Go Shop Period) plus expense reimbursement up to \$700,000.

A copy of the Merger Agreement is attached hereto as Exhibit 2.1 and is incorporated herein by reference. The foregoing description of the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement. The Merger Agreement has been attached to provide investors with information regarding its terms. It is not intended to provide any other factual information about the Company or CIM. In particular, the assertions embodied in the representations and warranties in the Merger Agreement were made as of a specified date, are modified or qualified by information in confidential disclosure schedules provided by each party to the other in connection with the signing of the Merger Agreement, may be subject to a contractual standard of materiality different from what might be viewed as material to shareholders, or may have been used for the purpose of allocating risk between the parties. Accordingly, the representations and warranties in the Merger Agreement are not necessarily characterizations of the actual state of facts about the Company or CIM at the time they were made or otherwise and should only be read in conjunction with the other information that the Company makes publicly available in reports, statements and other documents filed with the SEC.

## **Trust Preferred Shares**

The Trust Preferred Shares to be issued to CIM in connection with the Merger shall have the terms set forth in the Statement of Designation for Trust Preferred Shares (the “**Statement of Designation**”). The Trust Preferred Shares will by their terms, convert automatically into Trust Common Shares upon the filing of an amendment to the Declaration of Trust to change the name of the Company and to increase the number of authorized Trust Common Shares to allow for a sufficient number of authorized Trust Common Shares such that all of the Trust Preferred Shares can be converted (or the reincorporation of the Company from Texas to Maryland having a similar effect). Under the terms of the Merger Agreement, CIM agrees to cause the Company, and the Company agrees to present such matters to the Company’s shareholders in the Subsequent Proxy Statement and to file the amendment to the Declaration of Trust as soon as practicable after the Effective Time of the Merger.

The Trust Preferred Shares will accrue preferred cumulative dividends at the rate of 2.0% of \$35 per Trust Preferred Share per annum, payable when and if declared by the Board, irrespective of whether any dividend is then declared or paid on the Trust Common Shares. In addition, the holders of the Trust Preferred Shares are entitled to receive a final dividend upon conversion of the Trust Preferred Shares into Trust Common Shares that is equal to all accrued and unpaid dividends and, if the conversion occurs on or prior to the “Conversion Deadline,” the dividend payable on the Trust Preferred Shares shall be at the rate of 3.5% of \$35 per Trust Preferred Share per annum, measured since the date of initial issuance of the Trust Preferred Shares. For this purpose, the “**Conversion Deadline**” means the date that is six months after the Effective Time, provided that if the conversion does not occur on or prior to such six-month date due to the occurrence of actions taken by a governmental authority (including the SEC) or any other person unaffiliated with the holders of the Trust Common Shares and Trust Preferred Shares issued in the Merger, or due to the occurrence of acts of God or other events beyond the control of the Company or the holders of the Trust Common Shares and Trust Preferred Shares (i.e., a “**Force Majeure Event**”), then the Conversion Deadline shall be extended for so long as such actions or events continue to delay the conversion. Upon conversion, each Trust Preferred Share shall be converted into seven (7) Trust Common Shares, for an aggregate of approximately 455.2 million Trust Common Shares.

The Trust Preferred Shares will also have a liquidation preference over the Trust Common Shares equal to \$17.50 (plus accrued and unpaid dividends), as well as the right to thereafter participate with the Trust Common Shares on a reduced, as-converted, basis with the Trust Common Shares in any remaining liquidating distribution. The holders of the Trust Preferred Shares will have the right to vote together with the Trust Common Shares on an as-converted basis (thus enabling the holders of the Trust Preferred Shares to control virtually all shareholder votes), and will have the right to separately vote as a class with respect to the creation of any security on parity with or senior to the Trust Preferred Shares, the combination or subdivision of the Company’s shares, or the issuance of any Company shares (or convertible securities therefor), other than in connection with the exercise of options to purchase the Company’s shares that were outstanding at the Effective Time. The terms of the Trust Preferred Shares may be amended with the approval of the holders of Trust Preferred Shares and a majority of the Company’s independent trust managers, provided, that if any such amendment would have an adverse financial effect greater than \$250,000 in the aggregate or a non-financial material adverse effect on the holders of the Trust Common Shares, then such amendment must also receive the approval of the holders of at least a majority of the Trust Common Shares voting on such amendment (not including any vote cast by CIM and its affiliates or the holders of the Trust Preferred Shares).

A copy of the form of Statement of Designation is attached hereto as Exhibit 10.1 and is incorporated herein by reference. The foregoing description of the Statement of Designation does not purport to be complete and is qualified in its entirety by reference to the full text of the Statement of Designation.

## **Master Services Agreement**

In connection with the Merger, the Company and CIM Service Provider, LLC (the “**CIM Service Provider**”) shall execute and deliver a Master Services Agreement (the “**Master Services Agreement**”), effective as of the Effective Time.

Under the proposed terms of the Master Services Agreement, the Company and its direct and indirect subsidiaries (the “**Service Recipients**”) agree to engage exclusively CIM Service Provider or any of its affiliates or third parties as the CIM Service Provider may designate (such persons or entities, along with the CIM Service Provider, the “**Service Providers**”), to provide various management and administrative services to the Service Recipients. The CIM Service Provider will remain responsible to the Service Recipients for any such services provided by any other Service Provider. The Service Providers will, at all times, be subject to the supervision of the relevant Service Recipient’s governing body, and no provision of the Master Services Agreement shall be construed as limiting the power and authority of each Service Recipient’s governing body to manage the business and affairs of such Service Recipient.

The Service Providers will provide the Service Recipients with certain “**Base Services**,” including the following: (i) providing advice and recommendations to the Service Recipients regarding (a) nominees for and the exercise of voting rights of, the governing bodies of the Company and the other Service Recipients, (b) strategy and expansion of the Company’s business into new markets, (c) payment of dividends and other distributions, (d) personnel to carry out the functions of the principal executive, accounting and financial officers of the Company, and (e) capital structure and capital raising activities; (ii) providing people to serve as senior officers of the Service Recipients, subject to the approval of the relevant Governing Body; (iii) engaging and supervising, on PMC’s behalf and at PMC’s expense, independent contractors (including affiliates of the CIM Service Provider) that provide financial, legal, accounting or such other services as may be required relating to PMC’s operations and investments; and (iv) other strategic planning services related to any of the above-listed services.

In addition to the Base Services, the CIM Service Provider may elect, in its sole discretion, to have one or more of the Service Providers provide certain “**Transactional Services**” for any Service Recipient. Such services include, but are not limited to, (a) negotiating the acquisition or disposition of assets or businesses, (b) coordinating and executing capital markets transactions, (c) securing and amending property level debt and other financing, (d) securing co-investments and joint venture partners, (e) property, development and leasing services, (f) lending and loan origination services, (g) overseeing the internal management at certain Company subsidiaries, (h) obtaining insurance for Service Recipients, (i) human resources, (j) accounting and (k) loan servicing. In the event any Service Recipient requires any other service for which a Service Recipient would otherwise need to retain a third party to perform, CIM Service Provider or its affiliate shall have the right to perform such service as a Transactional Service.

The Service Recipients will pay the base service fee of \$250,000, quarterly in arrears, and such amount will be adjusted periodically for inflation. Each of the Service Recipients will also reimburse the relevant Service Provider for all direct expenses and out-of-pocket fees, costs and expenses incurred in connection with the provision of the Base Services. However, the Service Recipients will not be required to provide reimbursement for the salaries of the management and other personnel who provide such Base Services.

The fees for any Transactional Services (a “**Transaction Fee**”) will equal the fair market rate charged by similar quality service providers providing similar services in the same geographic market and that are generally at least as favorable to the Service Recipient as those that would be available to the Service Recipient in a third party arms-length transaction.

The Transaction Fee for property management, leasing brokerage and development management services will not exceed certain established limitations set forth on a schedule. Such schedule may be amended from time to time with the approval of the independent and disinterested members of the Company’s Board (the “**Independent Members**”) to add Transactional Services and the related Transaction Fees or to modify the amount of any Transaction Fee set forth thereon (the “**Approved Transaction Fee Services**”). Except for any agreement that provides for the provision of Approved Transaction Fee Services, without the approval of the Independent Members, the Service Recipients and the Service Providers may not enter into or amend any agreement which obligates the Service Recipients to pay Transaction Fees in excess of \$500,000 per calendar year. At each quarterly meeting of the Company’s

Board, the CIM Service Provider shall provide the Company's Board with a schedule of all arrangements for Transactional Services (excluding Approved Transaction Fee Services) entered into during the prior quarter, which summary shall identify the agreement and the parties thereto, summarize the Transactional Services provided thereunder and the Transaction Fee payable thereunder. Following the review and consideration by the Company's Board, if the Independent Members determine that any Transaction Fees that are payable or that have been paid by the Service Recipients do not meet the standard set forth in the first sentence of the preceding paragraph, the Independent Members and the CIM Service Provider shall negotiate in good faith the proper fee.

The Master Services Agreement also provides that the Company will appoint a member of the CIM entities, as designated by the CIM entities, as the manager ("**Urban GP Manager**") of Urban GP, the general partner of CIM Partnership, which is the entity that currently owns, directly or indirectly, all of the properties of the CIM entities. Generally, Urban GP Manager can only be removed as the manager of the general partner of CIM Partnership for "cause." If cause exists, then the Independent Members or the Company's shareholders shall have the right to call a special meeting of the Company's shareholders for the purpose of voting on the removal of Urban GP Manager and upon a 2/3 vote (excluding for this purpose any shares held by the Service Providers and their affiliates), may remove Urban GP Manager as the manager of the general partner of CIM Partnership and the Independent Members will appoint a replacement manager.

The CIM Service Provider may recommend new business opportunities to the Company for its approval. The CIM Service Provider will also make a recommendation as to (i) whether each such new business should be internally or externally managed and (ii) if externally managed, the external manager and the terms of the applicable Investment Management Agreement. If the proposed external manager is a Service Provider, the Independent Members must approve the decision to make such new business externally managed and the terms of the applicable Investment Management Agreement. If such new business will be internally managed, a Service Provider will oversee the hiring of personnel and the implementation of internal management as a Transactional Service.

The Master Services Agreement continues in full force and effect until December 31, 2018 (the "**Initial Term**"), and thereafter will renew automatically each year. The Company may generally only terminate the Master Services Agreement for CIM Service Provider's material breach of the Master Services Agreement, fraud, gross negligence or willful misconduct or if a Manager Change of Control occurs that the Independent Members determine to be materially detrimental to the Service Recipients as a whole. CIM Service Provider may terminate the Master Services Agreement for, among other things, any Service Recipient's material breach of the Master Services Agreement. However, the Master Services Agreement may not be terminated by The Company solely for the poor performance of any of the Service Recipient's operations or any investment made by any member of the Service Recipients on the recommendation of a Service Provider.

The Master Services Agreement may not be assigned by any Service Recipient or the CIM Service Provider without the consent of the other party, except in the case of an assignment by the CIM Service Provider to an affiliate or an entity that is a successor through merger or acquisition of the business of the CIM Service Provider and its affiliated Service Providers.

A copy of the form of Master Services Agreement is attached hereto as Exhibit 10.2 and is incorporated herein by reference. The foregoing description of the Master Services Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Master Services Agreement.

#### ***Registration Rights and Lockup Agreement***

In connection with the Merger, CIM, CIM GP and the Company shall execute and deliver a Registration Rights and Lockup Agreement (the "**Registration Rights and Lockup Agreement**"), effective as of the Effective Time.

The Registration Rights and Lockup Agreement provides that the Trust Common Shares issued directly pursuant to the Merger Agreement, or issued upon conversion of the Trust Preferred Shares, must be registered under the Securities Act of 1933, as amended (the “**Securities Act**”), by the Company upon the demand of the shareholders of the Company holding at least a majority of the applicable Registrable Common Securities (as defined in the Registration Rights and Lockup Agreement) then outstanding. Such a demand must be for the registration of at least 5% of the Registrable Common Securities then outstanding, or a lesser percent if the anticipated aggregate offering price would exceed \$5 million. Subject to certain limitations, the Company must proceed to effect the registration.

The Registration Rights and Lockup Agreement also provides that the Company’s shareholders also have, subject to certain limitation and qualifications, piggyback registration rights if the Company proposes to register any of its capital stock under the Securities Act. Additionally, if the Company is eligible to use Form S-3 for the resale of Registrable Securities, any Company shareholder may demand registration of all or a part of the Registrable Securities owned by such holder, provided that the aggregate price of the Registrable Securities proposed to be sold is not less than \$2.5 million.

The Registration Rights and Lockup Agreement provides that the Holders may not offer, sell or otherwise dispose of, directly or indirectly, any of the Trust Common Shares or Trust Preferred Shares issued in connection with the Merger, or any of the Trust Common Shares issued upon conversion of such Trust Preferred Shares (collectively, the “**Merger Issuance Shares**”), in any Public Sale (as defined in the Registration Rights and Lockup Agreement) or enter into any other arrangement that transfers any of the economic consequences of ownership of the Merger Issuance Shares in a Public Sale, or publicly disclose the intention to make any offer, sale or disposition, or enter into any other arrangement with respect to any Merger Issuance Shares in any Public Sale, during the period from the Effective Time through the one-year anniversary of the Effective Time (such period, the “**Lock-Up Period**”); provided, that these restrictions will terminate with respect to 40,000,000 Trust Common Shares six months following the Effective Time with the prior approval of the majority of the independent trust managers of the Board, and, after such six-month period, the Company may publicly disclose its intention to make an offer, sale or disposition through the filing of a registration statement with respect to the Trust Common Shares, provided that no more than 40,000,000 Trust Common Shares are actually sold prior to the expiration of the one-year time period referenced above. The lock-up restriction will not restrict the distribution of 100 Trust Preferred Shares to 100 different persons or up to 200,000 Trust Preferred Shares to one or more persons to the extent necessary to address the requirements of the national securities exchange on which the Trust Preferred Shares are listed.

The lock-up restrictions will not, in any case, restrict any offer, sale or other disposition of any Merger Issuance Shares in any transaction not directly or indirectly involving a Public Sale; provided, however, that in each such case, the transferred Merger Issuance Shares will be subject to all of the provisions of such lock-up restrictions.

A copy of the form of Registration Rights and Lockup Agreement is attached hereto as Exhibit 10.3 and is incorporated herein by reference. The foregoing description of the Registration Rights and Lockup Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Registration Rights and Lockup Agreement.

#### ***Chart of Structure of the Company and its Subsidiaries after the Merger***

Immediately after the Effective Time, the structure of the Company and its Subsidiaries shall be as set forth on Exhibit 10.4 attached hereto, which such Exhibit is hereby incorporated by reference.

#### **Item 7.01 Regulation FD Disclosure.**

On July 8, 2013, the Company issued a press release announcing the execution of the Merger Agreement. A copy of the press release is attached as Exhibit 99.1 to this report. This information shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act.



## **Additional Information about the Proposed Transaction and Where to Find It**

This report does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval. The Company plans to file with the U.S. Securities and Exchange Commission (SEC) a Registration Statement on Form S-4 and file with the SEC and mail to its shareholders a Proxy Statement/Prospectus in connection with the Merger and other Transactions. The Registration Statement and the Proxy Statement/Prospectus will contain important information about the Company, CIM Urban REIT and their respective affiliates, the Merger and other Transactions, and related matters. Investors and security holders are urged to read the Registration Statement and the Proxy Statement/Prospectus carefully when they are available.

Investors and security holders will be able to obtain free copies of the Registration Statement and the Proxy Statement/Prospectus and other documents filed with the SEC by the Company through the web site maintained by the SEC at [www.sec.gov](http://www.sec.gov).

In addition, investors and security holders will be able to obtain free copies of the Registration Statement and the Proxy Statement/Prospectus from PMC Commercial by contacting PMC Commercial Trust, Attn: Investor Relations, 17950 Preston Road, Suite 600, Dallas, Texas 75252.

The Company and its trust managers and executive officers may be deemed to be participants in the solicitation of proxies in respect of the Merger and other Transactions contemplated by the Merger Agreement. Information regarding the Company's trust managers and executive officers is contained in the Company's Annual Report on Form 10-K for the year ended December 31, 2012, and in its definitive proxy statement dated April 29, 2013, which are filed with the SEC. As of April 15, 2013, the Company's trust managers and executive officers beneficially owned as a group 499,243 Trust Common Shares, or 4.7% of the Trust Common Shares. Additional information regarding the interests of such potential participants will be included in the Proxy Statement/Prospectus and other relevant documents filed with the SEC in connection with the proposed Merger and other Transactions if and when they become available.

## **Forward-Looking Statements**

The information set forth herein (including information included or referenced herein) contains "forward-looking statements" (as defined in Section 21E of the Securities Exchange Act of 1934, as amended), which reflect the Company's and CIM's expectations regarding future events. The forward-looking statements involve a number of risks, uncertainties and other factors that could cause actual results to differ materially from those contained in the forward-looking statements. Such forward-looking statements include, but are not limited to, whether and when the Merger and other Transactions contemplated by the Merger Agreement will be consummated, the Company's and CIM's plans for the merged company, market and other expectations, objectives, intentions, as well as any expectations with respect to the merged company, including regarding valuations, future dividends, estimates of growth, and other statements that are not historical facts.

The following additional factors, among others, could cause actual results to differ from those set forth in the forward-looking statements: (1) the occurrence of any event, change or other circumstances that could give rise to the termination of the Merger Agreement; (2) the inability to complete the proposed Merger and other Transactions due to the failure to obtain the Company Shareholder Approvals for the Transactions or the failure to satisfy other conditions to completion of the Transactions, including that a governmental entity may prohibit, delay or refuse to grant approval for the consummation of the transactions; (3) risks related to disruption of management's attention from ongoing business operations due to the Merger and other Transactions; (4) the effect of the announcement of the proposed Merger and other Transactions on the Company's or CIM's relationships with its customers, investors, tenants, lenders, operating results and business generally; (5) risks related to substantial expenditures with respect to the Merger and

other Transactions, which may or may not be reimbursable in the event of the termination of the Merger Agreement; (6) the outcome of any legal proceedings relating to the Merger and other Transactions; and (7) risks to consummation of the Merger and other Transactions, including the risk that the Merger and other Transactions will not be consummated within the expected time period or at all. Additional factors that may affect future results are contained in the Company's filings with the SEC, which are available at the SEC's website at [www.sec.gov](http://www.sec.gov), including those set forth in the Company's Annual Report on Form 10-K for the year ended December 31, 2012. The Company disclaims any obligation to update and revise statements contained in this report or the materials referenced herein based on new information or otherwise.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

- |        |   |
|--------|---|
| 2.1*   | Agreement and Plan of Merger, dated as of July 8, 2013, by and among CIM Urban REIT, LLC, CIM Merger Sub, LLC, PMC Commercial Trust and Southfork Merger Sub, LLC |
| 10.1   | Form of Statement of Designation for Trust Preferred Shares   |
| 10.2   | Form of Master Services Agreement by and among PMC Commercial Trust, CIM Service Provider, LLC and each of the Subsidiaries party thereto                         |
| 10.3   | Form of Registration Rights and Lockup Agreement by and among CIM Urban REIT, LLC, CIM Urban Partners GP, LLC and PMC Commercial Trust                            |
| 10.4   | Form of Chart of Structure of PMC Commercial Trust and its Subsidiaries after the Merger  |
| 99.1** | Press Release issued by PMC Commercial Trust on July 8, 2013  |

\* Schedules to the agreement have been omitted pursuant to Section 601(b)(2) of Regulation S-K. The Company agrees to furnish supplementally a copy of any omitted schedule upon the request of the SEC.

\*\* In accordance with general instruction B.2 to Form 8-K, the information in this Form 8-K under Item 7.01 (Regulation FD Disclosure) shall be deemed "furnished" and not "filed" with the SEC for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section.

**SIGNATURE**

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: July 8, 2013

**PMC COMMERCIAL TRUST**

By: /s/ Jan F. Salit

Jan F. Salit, Chief Executive Officer

## EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Title</u>
2.1*	Agreement and Plan of Merger, dated as of July 8, 2013, by and among CIM Urban REIT, LLC, CIM Merger Sub, LLC, PMC Commercial Trust and Southfork Merger Sub, LLC
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**AGREEMENT AND PLAN OF MERGER**

**BY AND AMONG**

**CIM URBAN REIT, LLC,**

**CIM MERGER SUB, LLC,**

**PMC COMMERCIAL TRUST**

**AND**

**SOUTHFORK MERGER SUB, LLC**

**DATED AS OF JULY 8, 2013**

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## AGREEMENT AND PLAN OF MERGER

**THIS AGREEMENT AND PLAN OF MERGER** (the "Agreement"), dated as of July 8, 2013, is made and entered into by and among CIM Urban REIT, LLC, a Delaware limited liability company ("CIM"), CIM Merger Sub, LLC, a Delaware limited liability company and wholly-owned subsidiary of CIM ("CIM Merger Sub"), PMC Commercial Trust, a Texas real estate investment trust ("Trust"), and Southfork Merger Sub, LLC, a Delaware limited liability company and wholly-owned subsidiary of Trust ("Trust Merger Sub"). CIM, CIM Merger Sub, Trust and Trust Merger Sub are referred to herein, from time to time, individually as a "Party" and as the "Parties".

### RECITALS

**WHEREAS**, the Director of CIM, the Manager of CIM Merger Sub and Trust Merger Sub, and the Board of Trust Managers of Trust have approved and deem it advisable and in the best interests of their respective shareholders to consummate the merger transaction provided for herein whereby CIM Merger Sub will merge with and into Trust Merger Sub (the "Merger") in accordance with applicable state law and upon the terms and subject to the conditions set forth in this Agreement;

**WHEREAS**, the Board of Trust Managers of Trust, among other things, has (a) determined that the Transactions (as defined below), including the Merger and the issuance of common shares of beneficial interest, par value, \$0.01 per share, of Trust ("Trust Common Shares") and convertible preferred shares of beneficial interest, par value, \$0.01 per share, of Trust with the terms set forth on Annex A ("Trust Preferred Shares") to CIM in connection with the GP Contribution (as defined below) and the Merger (the "Trust Common and Preferred Shares Issuance"), are fair to, and in the best interests of, Trust and its shareholders, (b) approved this Agreement and the Transactions, including the Merger and the Trust Common and Preferred Shares Issuance, and (c) resolved, subject to the terms of this Agreement, to recommend to Trust's shareholders, approval of the Trust Common and Preferred Shares Issuance;

**WHEREAS**, the Parties desire to make certain representations, warranties, covenants and agreements in connection with the Merger and also to prescribe various conditions to the Merger;

**WHEREAS**, for federal income tax purposes it is intended that: (1) the Merger qualify as a transfer of property by CIM to Trust solely in exchange for stock of Trust, as described in Section 351(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and (2) the Closing Dividend (as defined in Section 4.2 below) be treated as a distribution from Trust to its pre-Merger shareholders under Section 301 of the Code; and

**WHEREAS**, the transactions contemplated by this Agreement, the Master Services Agreement (as defined herein), the Registration Rights and Lockup Agreement (as defined herein), and the other agreements and documents contemplated hereby, including, without limitation, the Merger and the Trust Common and Preferred Shares Issuance shall be referred to collectively in this Agreement as the "Transactions."

**NOW, THEREFORE**, in consideration of the representations, warranties, covenants and agreements contained in this Agreement, the Parties agree as follows:

### ARTICLE I THE MERGER

1.1 *The Merger.* Subject to the terms and conditions of this Agreement and in accordance with the Delaware Limited Liability Company Act (the "DLLCA"), at the Effective Time (as defined herein), the Parties shall consummate the Merger pursuant to which (a) CIM Merger Sub shall be merged with and into Trust Merger Sub and the separate corporate existence of CIM Merger Sub shall thereupon cease, (b) Trust Merger Sub shall be the successor or surviving entity in the Merger (the "Surviving Entity"), shall succeed to and assume all rights and obligations of CIM Merger Sub and shall be governed by the certificate of formation and limited liability

company agreement of Trust Merger Sub and the laws of the State of Delaware, including the DLLCA and (c) the separate corporate existence of Trust Merger Sub with all of its rights, privileges, immunities, powers and franchises shall continue unaffected by the Merger.

1.2 *Closing*. The closing of the Merger (the “Closing”) shall take place at 10:00 a.m. on a date to be specified by the Parties (the “Closing Date”), which Closing Date shall be no later than the second business day after satisfaction or waiver of all of the conditions set forth in Article IX hereof (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions), at the offices of DLA Piper LLP (US), 203 North LaSalle Street, Suite 1900, Chicago, Illinois 60601-1293, unless another time, date or place is agreed to in writing by the Parties hereto.

1.3 *Effective Time*. Subject to the provisions of this Agreement, as soon as practicable on the Closing Date, Trust and CIM shall (i) file a certificate of merger, or other appropriate document (the “Certificate of Merger”), with the Secretary of State of the State of Delaware and (ii) as soon as practicable on or after the Closing Date, make all other filings or recordings required under the DLLCA. The Merger shall become effective upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware in accordance with the DLLCA, or at such other time, if any, as Trust and CIM shall agree and designate in such filings in accordance with applicable law (the time the Merger becomes effective being the “Effective Time”).

1.4 *Effects of the Merger*. The Merger shall have the effects set forth in the DLLCA and this Agreement.

1.5 *Organizational Documents*. The certificate of formation and limited liability company agreement of Trust Merger Sub, as in effect immediately prior to the Effective Time, shall be the certificate of formation and limited liability agreement of the Surviving Entity until thereafter changed or amended as provided therein or by applicable Law.

1.6 *Taking of Necessary Action*. Each of the Parties shall use its commercially reasonable efforts to take all such action as may be necessary or appropriate in order to effectuate the Merger in accordance with applicable state Law.

## **ARTICLE II BOARD AND OFFICERS**

2.1 *The Surviving Entity*. Trust shall be Manager of the Surviving Entity in accordance with the limited liability company agreement of the Surviving Entity.

2.2 *Trust*. As of the Effective Time, the trust managers and officers of Trust shall be the persons listed on Schedule 8.9.

## **ARTICLE III EFFECT OF THE MERGER**

3.1 *Effect of the Merger*. As of the Effective Time, by virtue of the Merger and without any action on the part of CIM, CIM Merger Sub, Trust or Trust Merger Sub or the holders of any of the following services:

(a) *Conversion of Equity Interest of CIM Merger Sub*. Each equity interest of CIM Merger Sub issued and outstanding immediately prior to the Effective Time shall be cancelled and shall be converted automatically and become in the aggregate 22,000,003 validly issued, fully paid and nonassessable Trust Common Shares and 65,028,571 validly issued, fully paid and nonassessable Trust Preferred Shares. As of the Effective Time, all of the certificates evidencing equity interests of CIM Merger Sub (the “Certificates”), by virtue of the Merger, shall no longer be outstanding and shall automatically be cancelled and cease to exist, and CIM shall cease to have any rights with respect to the equity interests of CIM Merger Sub represented thereby, except the right to receive,

upon the surrender of the Certificates in accordance with Article IV, certificates evidencing the Trust Common Shares and Trust Preferred Shares to be issued or paid in consideration therefor upon surrender of such Certificates, as provided above (the "Merger Consideration").

(b) *Limited Liability Company Interests of Trust Merger Sub.* Upon the Effective Time, all limited liability company interests of Trust Merger Sub outstanding immediately prior to the Effective Time shall remain as limited liability company interests of the Surviving Entity.

3.2 *Trust Stock Options and Trust Restricted Shares.* As provided in Trust's Amended and Restated 2005 Equity Incentive Plan (the "Incentive Plan"), as of the Effective Time, each outstanding option to purchase Trust Common Shares (each, a "Trust Option") shall become fully exercisable, and each Trust Common Share subject to forfeiture or vesting conditions shall no longer be subject to any such forfeiture or vesting condition. In addition, in connection with the declaration of an extraordinary dividend, the Compensation Committee of the Board of Trust Managers of Trust shall retain the authority to adjust the exercise price of outstanding options to account for such dividend, provided that such adjustment complies with the terms of the Incentive Plan, the adjustment does not exceed \$5.50 per share, and in no event shall the exercise price per share be reduced below \$0.

#### **ARTICLE IV EXCHANGE OF CERTIFICATES; OTHER TRANSACTIONS**

4.1 *Exchange.* At the Effective Time, CIM shall surrender the Certificates for cancellation and the Surviving Entity shall issue to CIM certificates representing the Merger Consideration.

4.2 *Closing Dividend.* Trust shall declare a dividend payable to each shareholder of record as of the close of business on the last Business Day prior to the Effective Time in an amount equal to the sum of (i) \$5.50 per Trust Common Share (but in no event in the aggregate more than \$58,280,000, plus (ii) the portion of Trust's regularly quarterly dividend not in excess of \$0.125 per Trust Common Share, accrued pro rata through the last Business Day prior to the Effective Time, plus (iii) any dividends attributable to the exercise of any Trust Option prior to the Effective Time that is currently outstanding on the date of this Agreement) (the "Closing Dividend"), such Closing Dividend to be paid on or prior to the tenth (10th) Business Day after the Effective Time.

4.3 *Contributions; Other Transactions.*

(a) Prior to the Effective Time, CIM shall contribute to CIM Merger Sub all of the limited partner interests of CIM Urban Partners L.P. (the "CIM Partnership").

(b) Prior to the Effective Time, Trust shall contribute to Trust Merger Sub all of its assets, including the capital stock of all of its other Subsidiaries.

(c) Immediately prior to the Effective Time, Urban Partners GP, LLC, a newly created Delaware limited liability company ("Urban GP") that is wholly-owned by CIM (and managed by a CIM Affiliate) will be admitted to CIM Partnership as a successor general partner;

(d) Simultaneously with the Effective Time, CIM Urban Partners GP, LLC (the "CIM GP") will contribute its general partnership interests in the CIM Partnership to the Surviving Entity in exchange for a number of Trust Common Shares and Trust Preferred Shares to be determined by CIM prior to the Effective Time (the "GP Contribution"), which shares shall come out of the Merger Consideration and shall be evidenced by certificates issued to CIM GP; provided that the number of shares issued to CIM GP may be adjusted after the Effective Time pursuant to a transfer between CIM and CIM GP.

(e) Simultaneously with the Effective Time, CIM will contribute all of the outstanding equity interests of Urban GP to the Surviving Entity in exchange for a number of Trust Common Shares and Trust Preferred Shares to be determined by CIM prior to the Effective Time, which shares shall come out of the Merger Consideration and shall be evidenced by certificates issued to CIM.

(f) Trust and CIM Service Provider, LLC (the “Service Provider”) shall execute and deliver the Master Services Agreement in the form attached hereto as Annex B (the “Master Services Agreement”), effective as of the Effective Time.

(g) The investment management agreement between the CIM Urban REIT Management, LP (the “Management Company”) and the CIM Partnership in effect as of the date hereof shall continue in full force and effect in accordance with its terms after the Merger.

(h) CIM, CIM GP and Trust shall execute and deliver the Registration Rights and Lockup Agreement in the form attached hereto as Annex C (the “Registration Rights and Lockup Agreement”), effective as of the Effective Time.

(i) Immediately after the Effective Time, the structure of Trust and its Subsidiaries shall be as set forth on Annex D.

(j) After the Effective Time, the Parties acknowledge that Trust and its Subsidiaries may engage in a variety of real estate-related activities, including, without limitation, (i) originating and/or investing in a variety of loan products including, but not limited to, mezzanine loans, commercial real estate loans and other types of loans and/or (ii) real estate development activities to create core properties or otherwise. These new activities may be internally managed or externally managed by the Management Company or its Affiliates.

4.4 *Dissenters’ Rights*. No dissenters’ or appraisal rights shall be available with respect to the Merger or the other Transactions.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF CIM AND CIM MERGER SUB

Except as set forth in the disclosure schedules attached hereto (the “CIM Disclosure Schedules”), which shall be arranged in paragraphs corresponding to the numbered and lettered paragraphs contained in this Article V and that may be amended from time to time pursuant to the provisions hereof, CIM and CIM Merger Sub represent and warrant to Trust that:

5.1 *Organization, Standing and Corporate Power*. Each of CIM and CIM Merger Sub is a limited liability company, validly existing and in good standing under the laws of the jurisdiction of its organization and has the requisite limited liability power and authority to carry on its business as now being conducted. Each of CIM and CIM Merger Sub is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the nature of its business makes such qualification or licensing necessary, other than in such jurisdictions where the failure to be so qualified or licensed, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the business, properties, assets, financial condition or results of operations of the CIM Partnership and its Subsidiaries (as defined below) taken as a whole but excluding therefrom any such change, effect, event, occurrence or state of facts resulting from or arising in connection with (a) changes or conditions generally affecting the industries in which CIM operates, (b) this Agreement, the Transactions or the announcement thereof or (c) any change or effect resulting from any change in general economic conditions (a “CIM Material Adverse Effect”). For purposes of this Agreement: (x) the term “Subsidiary” of any Person means any corporation, partnership, limited liability company, joint venture or other legal entity of which such Person (either directly or through or together with another Subsidiary of such Person) has the right or power to elect a majority of the board of directors or other governing body; (y) the term “Person” means an individual, corporation, partnership, limited liability company, trust, association, unincorporated organization or other entity; and (z) the term “Affiliate” of any Person means any other Person who is an “affiliate” of that Person within the meaning of Rule 405 promulgated under the Securities Act (as defined herein). CIM has delivered to Trust or its counsel complete and correct copies of the organizational documents of CIM and CIM Merger Sub, each amended to the date of this Agreement.

5.2 *CIM Subsidiaries*. Schedule 5.2 hereto sets forth each CIM Subsidiary and a chart detailing certain aspects of the ownership of each CIM Subsidiary. Schedule 5.2 sets forth, for each CIM Subsidiary, its jurisdiction of organization or formation, and the names of the record owners of its equity interests (except for the Class B Preferred Shareholders of CIM Subsidiaries that are REITs (the “Accommodation Shareholders”). For the purposes hereof, the following CIM Subsidiaries: Union Square Plaza Owner LP, Union Square 825 Property LP, Union Square 941 Property LP, and CIM/J Street Hotel Sacramento, L.P. shall be collectively referred to herein as the “Joint Ventures”. For the purposes hereof, the governing documents of the Joint Ventures, complete copies of which have been made available to Trust, shall be collectively referred to herein as the “Joint Venture Agreements”. Except for the equity interests set forth on Schedule 5.2 and shares issued to Accommodation Shareholders, none of the CIM Subsidiaries have issued or agreed to issue any: (a) share of capital stock or other equity or ownership interest; (b) option, warrant or interest convertible into or exchangeable or exercisable for the purchase of shares of capital stock or other equity or ownership interests; (c) stock appreciation right, phantom stock, interest in the ownership or earnings of a CIM Subsidiary or other equity equivalent or equity-based award or right; or (d) bond, debenture or other indebtedness having the right to vote or convertible or exchangeable for securities having the right to vote. Except as set forth (A) on Schedule 5.2, (B) in the Joint Venture Agreements and (C) for rights granted to Trust and the Trust Merger Sub under this Agreement, there are no outstanding obligations of any CIM Subsidiary to issue, sell, or transfer or repurchase, redeem, or otherwise acquire, or that relate to the holding, voting, or disposition of or that restrict the transfer of, the issued or unissued capital stock or other equity or ownership interests of any CIM Subsidiary. Except as set forth on Schedule 5.2, (a) all the outstanding shares of capital stock of each CIM Subsidiary that is a corporation (i) have been validly issued, (ii) are fully paid and nonassessable and (iii) are owned, beneficially and of record, directly by CIM or by another CIM Subsidiary free and clear of all pledges, claims, liens, charges, encumbrances and security interests of any kind or nature whatsoever (collectively, “Liens”), except (x) for loans made pursuant to written agreements by equity owners (or their affiliates) (excluding CIM REIT) to their subsidiaries and (y) as set forth in the Joint Venture Agreements and (b) all of CIM’s equity interests in each CIM Subsidiary that is a partnership, joint venture, limited liability company or trust are owned, beneficially and of record, directly by CIM, by another CIM Subsidiary, by CIM and another CIM Subsidiary or by two or more CIM Subsidiaries free and clear of all Liens. Except as set forth on Schedule 5.2 or in the Joint Venture Agreements, there are no outstanding contractual obligations of any CIM Subsidiary to provide funds to, or make any investment in, any other Person (other than to another wholly-owned CIM Subsidiary of CIM Partnership or Joint Venture). Except for the capital stock of or other equity or ownership interests in CIM Subsidiaries, and except as set forth on Schedule 5.2, neither CIM nor any CIM Subsidiary owns, directly or indirectly, any capital stock or other equity or ownership interest in any other Person. Each CIM Subsidiary that is a corporation is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has the requisite corporate power and authority to carry on its business as now being conducted, and each CIM Subsidiary that is a partnership, limited liability company or trust is duly organized and validly existing under the laws of its jurisdiction of organization and has the requisite power and authority to carry on its business as now being conducted. Except as set forth on Schedule 5.2, each CIM Subsidiary is duly qualified or licensed to do business and, where applicable, is in good standing in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification or licensing necessary, other than in such jurisdictions where the failure to be so qualified or licensed, individually or in the aggregate, would not reasonably be expected to have a CIM Material Adverse Effect.

5.3 *CIM Merger Sub*. All of the outstanding equity interests in CIM Merger Sub are owned directly by CIM, free and clear of all Liens and, except as set forth on Schedule 5.3, transfer restrictions, voting agreements or other agreements with respect to the ownership, voting, control, or other transfer of such equity or other ownership interests. Since the date of its formation, CIM Merger Sub has not carried on any business or conducted any operations other than execution of this Agreement and the performance of its obligations hereunder. CIM Merger Sub was incorporated solely for the consummation of the Merger.

5.4 *Authority; Noncontravention*. Each of CIM and CIM Merger Sub has the requisite limited liability company power and authority to enter into this Agreement and, subject to approval of this Agreement by CIM in

its capacity as sole member of CIM Merger Sub, to consummate the Transactions. The execution and delivery of this Agreement by each of CIM and CIM Merger Sub and the consummation by each of CIM, CIM Merger Sub and each CIM Subsidiary of the Transactions to which it is a party have been duly authorized by all necessary limited liability company or other action on the part of CIM, CIM Merger Sub and each such CIM Subsidiary, subject to approval of this Agreement by CIM in its capacity as sole member of CIM Merger Sub. Except as set forth on Schedule 5.4, the execution and delivery of this Agreement by each of CIM and CIM Merger Sub do not, and the consummation of the Transactions to which it is a party and compliance by CIM and CIM Merger Sub with the provisions of this Agreement will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any Lien upon any of the properties or assets of CIM, CIM Merger Sub or any CIM Subsidiary under, or give rise to any increased, additional, accelerated, or guaranteed rights or entitlements under or require any consent, waiver or approval of any Person pursuant to any provision of (a) the charter or organizational documents or partnership or similar agreement (as the case may be) of CIM, CIM Merger Sub or any other CIM Subsidiary, (b) any written loan or credit agreement, note, bond, mortgage, indenture, guaranty, lease, sublease (other than leases or subleases under which CIM, CIM Merger Sub, or any CIM Subsidiary is a landlord or lessor) or other contract or agreement (each, a "Contract") applicable to CIM, CIM Merger Sub or any other CIM Subsidiary or their respective properties or assets or (c) subject to the governmental filings and other matters referred to in Section 5.5, any judgment, order, decree, statute, law, ordinance, rule or regulation (collectively, "Laws") applicable to CIM, CIM Merger Sub or any other CIM Subsidiary, or their respective properties or assets, other than, in the case of clause (b) or (c), any such conflicts, violations, defaults, rights or Liens that individually or in the aggregate would not reasonably be expected to (i) have a CIM Material Adverse Effect or (ii) prevent the consummation of the Transactions.

5.5 *Consents*. No consent, approval, order or authorization of, or registration, declaration or filing with, any federal, state or local government or any court, administrative or regulatory agency or commission or other governmental authority or agency, domestic or foreign (a "Governmental Entity"), is required by or with respect to CIM, CIM Merger Sub or any other CIM Subsidiary in connection with the execution and delivery of this Agreement by CIM and CIM Merger Sub or the consummation by CIM, CIM Merger Sub or any other CIM Subsidiary of the Transactions to which it is a party, except for (a) the filing by any person in connection with any of the Transactions of a pre-merger notification and report form under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), to the extent applicable; (b) compliance with any applicable requirements of (i) the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations promulgated thereunder, (ii) the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations promulgated thereunder, including, without limitation, the filing with the Securities and Exchange Commission (the "SEC") of a proxy statement/prospectus relating to the approval by Trust's shareholders of the Transactions (as amended or supplemented from time to time, the "Proxy Statement"), and (iii) the NYSE MKT ("NYSE") or other applicable national securities exchange; (c) the filing of the Certificate of Merger with the Secretary of State of Delaware; (d) compliance with any applicable requirements of the Small Business Investment Act of 1958, as amended, and the rules and regulations promulgated thereunder (the "1958 Act"), the Small Business Investment Act (1958), as amended, and the rules and regulations promulgated thereunder (the "Small Business Investment Act") and any other applicable requirements, rules, or regulations of the U.S. Small Business Administration (the "SBA"); and (e) such other consents, approvals, orders, authorizations, registrations, declarations and filings (i) as are set forth on Schedule 5.5, (ii) as may be required under (A) federal, state or local environmental laws or (B) the "blue sky" laws of various states or (iii) which, if not obtained or made, would not prevent or delay in any material respect the consummation of any of the Transactions or otherwise prevent CIM or CIM Merger Sub from performing its obligations under this Agreement in any material respect. Notwithstanding the foregoing, the representations and warranties in this Section 5.5 do not include any representation or warranty regarding any transfer tax declarations, property tax assessments, reassessments, or similar documents or consents.

5.6 *Financial Statements; Undisclosed Liabilities.*

(a) Schedule 5.6 contains a true and complete copy of the following financial statements: (a) audited consolidated financial statements of the CIM Partnership and its Subsidiaries (including the balance sheet and the related statements of income and cash flow) as of and for each of the 12-month periods ended December 31, 2011 and December 31, 2012, respectively, together with all related notes and schedules thereto, accompanied by the reports thereon of CIM's independent auditors (collectively, the "CIM Year-End Financial Statements"); and (ii) unaudited consolidated financial statements of the CIM Partnership and its Subsidiaries (including the balance sheet and the related statements of income and cash flows) as of and for the three month period ended March 31, 2013 (the "CIM Interim Financial Statements") and, together with the CIM Year-End Financial Statements, the "CIM Financial Statements"). The CIM Financial Statements have been prepared in accordance with generally accepted accounting principles ("GAAP") applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly presented in all material respects, in accordance with the applicable requirements of GAAP, the financial position of the CIM Partnership and its Subsidiaries as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of the CIM Interim Financial Statements, to normal and recurring year-end audit adjustments).

(b) Except as set forth on Schedule 5.6 or as permitted by Section 7.1 (for the purposes of this sentence, as if Section 7.1 had been in effect since December 31, 2012), neither the CIM Partnership nor any of its Subsidiaries has any material liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) required by GAAP to be set forth on a consolidated balance sheet of the CIM Partnership or, to the knowledge of CIM, of any unconsolidated Subsidiary of the CIM Partnership or in the notes thereto other than any such liabilities or obligations incurred since December 31, 2012 in the ordinary course of business consistent with past practice of the CIM Partnership and its Subsidiaries. For purposes of this Agreement, the term "knowledge" (and derivation terms thereof) with respect to CIM shall mean the actual knowledge of those Persons set forth on Schedule 5.6 and shall include the actual knowledge of such Persons gained through their participation in the business and operations of CIM, the CIM Partnership and the CIM Subsidiaries.

(c) Since December 31, 2010, neither the CIM Partnership nor, to the knowledge of CIM, any director, officer, employee, auditor, accountant or representative of CIM, the CIM Partnership or any party providing accounting or financial advisory services to CIM, the CIM Partnership or any CIM Subsidiary, has received or otherwise had or obtained knowledge of any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of CIM, the CIM Partnership or any CIM Subsidiary or its respective internal accounting controls, including any material complaint, allegation, assertion or claim that CIM, the CIM Partnership or any CIM Subsidiary has engaged in questionable accounting or auditing practices.

(d) The CIM Partnership (or CIM GP on behalf of CIM Partnership) has established and maintains a system of internal control over financial reporting designed to provide reasonable assurance regarding the reliability of CIM Partnership's financial reporting and the preparation of the CIM Partnership's financial statements for external purposes in accordance with GAAP. To the knowledge of CIM, there is not (i) any significant deficiencies and material weaknesses in the design or operation of CIM GP's or the CIM Partnership's internal control over financial reporting which are reasonably likely to adversely affect the CIM Partnership's ability to record, process, summarize and report financial information and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the CIM Partnership's internal control over financial reporting.

5.7 *Binding Effect.* This Agreement has been duly executed and delivered by, and constitutes a valid and binding obligation of, enforceable against each of CIM and CIM Merger Sub in accordance with its terms as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws affecting the enforcement of creditors' rights generally or by general equitable principles (regardless of whether such enforcement is sought in a proceeding in equity or at law).

5.8 *Absence of Certain Changes or Events.* Except as disclosed on Schedule 5.8, since December 31, 2012 and to the date of this Agreement, CIM, the CIM Partnership and its Subsidiaries have conducted their business only in the ordinary course and there has not been (a) any change event, occurrence or effect that individually or in the aggregate, has had or would reasonably be expected to have a CIM Material Adverse Effect (a “CIM Material Adverse Change”), nor has there been any occurrence or circumstance that with the passage of time would reasonably be expected to result in a CIM Material Adverse Change, (b) any declaration, setting aside or payment of any dividend or other distribution (whether in cash, stock or property) with respect to any equity interests in the CIM Partnership outside the ordinary course of business or as permitted under Section 7.1, (c) any issuance or authorization of any issuance of any other equity or ownership interest in the CIM Partnership, or in respect of, in lieu of or in substitution for, or giving the right to acquire by exchange or exercise, of its equity interests or any issuance of an ownership interest in, any CIM Subsidiary except as permitted by Section 7.1, (d) any material damage, destruction or loss, not covered by insurance, or (e) any change in accounting methods, principles or practices by the CIM Partnership or any of its CIM Subsidiaries, except as may have been required by a change in GAAP.

5.9 *Litigation.* Except as disclosed on Schedule 5.9, there is no suit, action or proceeding pending or threatened in writing against or affecting CIM, the CIM Partnership or any CIM Subsidiary that, individually or in the aggregate, would reasonably be expected to (a) be material to the CIM Partnership and its subsidiaries taken as a whole or (b) affect the legality, validity or enforceability of this Agreement of any of the other Transaction Documents or prevent the consummation of any of the Transactions, nor is there any judgment, decree, injunction, rule or order of any Governmental Entity or arbitrator outstanding against CIM, the CIM Partnership or any CIM Subsidiary having, or which, insofar as reasonably can be foreseen, in the future would have a CIM Material Adverse Effect.

#### 5.10 *Environmental Matters.*

(a) Except as set forth in Schedule 5.10, (i) neither the CIM Partnership nor any of its Subsidiaries has ever generated, treated or disposed of any Hazardous Substance in violation of any Environmental, Health and Safety Law or otherwise violated any Environmental, Health and Safety Law, except for matters that, individually or in the aggregate, would not be material to the CIM Partnership and the CIM Subsidiaries, taken as a whole; (ii) neither the CIM Partnership nor any of its Subsidiaries has any liability under any Environmental, Health and Safety Law that individually or in the aggregate, would be material to the CIM Partnership and the CIM Subsidiaries, taken as a whole; and (iii) to CIM’s knowledge, each of the CIM Partnership and its Subsidiaries is in compliance in all material respects with all applicable Environmental, Health and Safety Laws. Neither the CIM Partnership nor any of its Subsidiaries has ever entered into nor been subject to any judgment, consent decree, compliance order, or administrative order with respect to any environmental or health and safety matter nor received any demand letter, formal complaint or claim with respect to any environmental or health and safety matter, or the enforcement of any Environmental, Health and Safety Law, in either case, imposing material liability on the CIM Partnership and its Subsidiaries, taken as a whole.

(b) Except as set forth in Schedule 5.10 or for matters that, individually or in the aggregate, would not reasonably be expected to have a CIM Material Adverse Effect, (i) during CIM Partnership’s or any of its Subsidiaries’ ownership or operation of any real property, and to the knowledge of CIM prior to such ownership or operation, no release, leak, discharge, spill, disposal, migration or emission of Hazardous Substances has occurred in, on, under or from any of such real property in a quantity or manner that violates or requires reporting, monitoring, investigation or remediation under any applicable Environmental, Health and Safety Law; (ii) the real property owned or operated by CIM Partnership or any of its Subsidiaries is free of Hazardous Substances as of the date of this Agreement, except for the presence of small quantities of Hazardous Substances utilized, maintained stored and disposed in the ordinary course of the business operations thereon and in compliance with Environmental, Health and Safety Laws; and (iii) no underground storage tanks are present at any real property owned or operated by CIM Partnership or any of its Subsidiaries. To the knowledge of CIM, no claim has been made and is pending or is threatened alleging any material liability of any party with respect to or arising from any Hazardous Substances on, under, about or from any real property owned or operated or formerly



owned or operated by CIM Partnership or any of its Subsidiaries. Notwithstanding the foregoing, to the extent any of the representations and warranties contained in this Section 5.10(b) relate to actions or inactions of any tenant of CIM Partnership, any CIM Subsidiary or any Affiliate thereof, such representations and warranties are limited to the knowledge of CIM.

(c) For the purposes of this Agreement, “Environmental, Health and Safety Laws” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”), the Resource Conservation and Recovery Act of 1976 (“RCRA”), the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act of 1974, the Toxic Substances Control Act, the Emergency Planning and Community Right-to-Know Act of 1986, the Hazardous Materials Transportation Act, and the Occupational Safety and Health Act of 1970, each as amended, together with all other laws (including rules, regulations, codes, injunctions, judgments, orders, decrees and rulings) of federal state and local governments (and all agencies thereof) concerning pollution or protection of the environment, natural resources, public health and safety, or employee health and safety, including laws relating to emissions, discharges, releases, or threatened release of pollutants, contaminants, or chemical, industrial, hazardous, or toxic materials (including petroleum products and asbestos) or wastes into ambient air, surface water, ground water, or lands or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, or chemical, industrial, hazardous, or toxic materials or wastes.

(d) “Hazardous Substances” means any substance, material or waste that is regulated, classified, defined, or otherwise characterized under or pursuant to any Environmental, Health and Safety Law as “hazardous,” “toxic,” “pollutant,” “contaminant,” “radioactive,” or words of similar meaning or effect, including “hazardous substances” as currently defined by CERCLA, “hazardous wastes” as currently defined by RCRA, petroleum and petroleum products, asbestos, and polychlorinated biphenyls, as well as mold in or on building materials and in quantities and locations requiring abatement or remediation pursuant to Environmental, Health and Safety Laws or commercially reasonable business standards).

5.11 *Related Party Transactions.* Except as set forth on Schedule 5.11 to the knowledge of CIM, no present or former director, executive officer, stockholder, partner, member, employee, or Affiliate of CIM, the CIM GP, the CIM Partnership, nor any of such Person’s Affiliates or immediate family members (each of the foregoing, a “CIM Related Party”), is a party to any Contract with or binding upon the CIM Partnership, any CIM Subsidiary or any of their respective properties or assets under which there are any existing or future obligations or liabilities or has any interest in any property owned by the CIM Partnership or any CIM Subsidiary (in each case, a “CIM Affiliate Transaction”). Except as set forth on Schedule 5.11, to the knowledge of CIM, no CIM Related Party owns, directly or indirectly, on an individual or joint basis, any interest in, or serves as an officer or director or in another similar capacity of, any supplier or other independent contractor of the CIM Partnership or any CIM Subsidiary, or any organization which has a Contract with the CIM Partnership or any CIM Subsidiary. Copies of all such Contracts have been previously delivered or made available to Trust.

5.12 *Absence of Changes in Benefit Plans; ERISA Compliance.*

(a) Except as disclosed on Schedule 5.12(a), neither the CIM Partnership nor any of its Subsidiaries has any bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, phantom stock, retirement, vacation, severance, disability, death benefit, hospitalization, medical or other employee benefit plan, arrangement or understanding (whether or not legally binding, or oral or in writing) providing benefits to any current or former employee, officer or director of the CIM Partnership, any of its Subsidiaries or any person affiliated with the CIM Partnership under Section 414(b), (c), (m) or (o) of the Code (collectively, “CIM Benefit Plans”).

(b) Except as described on Schedule 5.12(b) or as would not have a CIM Material Adverse Effect, (i) all CIM Benefit Plans, including any such plan that is an “employee benefit plan” as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), are in compliance with all applicable requirements of law, including ERISA and the Code, and (ii) neither the CIM Partnership nor any of its Subsidiaries has any liabilities or obligations with respect to any such CIM Benefit Plan, whether accrued,

contingent or otherwise, nor to the knowledge of CIM are any such liabilities or obligations expected to be incurred. Except as set forth on Schedule 5.12(b), the execution of, and performance of the Transactions in, this Agreement will not (either alone or upon the occurrence of any additional or subsequent events) constitute an event under any CIM Benefit Plan, policy, arrangement or agreement or any trust or loan that will or may result in any payment (whether of severance pay or otherwise), acceleration, forgiveness of indebtedness, vesting, distribution, increase in benefits or obligation to fund benefits with respect to any employee or director. The only severance agreements or severance policies applicable to the CIM Partnership or its Subsidiaries are the agreements and policies specifically referred to on Schedule 5.12(b).

5.13 *Properties*. Except as provided on Schedule 5.13, the CIM Partnership or one of its Subsidiaries own good and marketable fee simple title to each of the real properties identified on Schedule 5.13 (the "CIM Properties"), which are all of the real estate properties owned by them, in each case (except as provided below) free and clear of Liens. Schedule 5.13 lists the street address and owner of each CIM Property. CIM Partnership and each CIM Subsidiary, as applicable, is in possession of title insurance policies evidencing title insurance with respect to each CIM Property (each, a "CIM Title Insurance Policy" and collectively, the "CIM Title Insurance Policies"). Schedule 5.13 lists the parties currently providing third-party property management services to the CIM Partnership or a CIM Subsidiary and the number of CIM Properties currently managed by each such party. To CIM's knowledge, the CIM Properties are not subject to any rights of way, written agreements, laws, ordinances and regulations affecting building use or occupancy, or reservations of an interest on title (collectively, "Property Restrictions"), except for (i) Liens and Property Restrictions set forth on Schedule 5.13, (ii) Property Restrictions imposed or promulgated by law or any Governmental Entity with respect to real property, including zoning regulations, provided they do not materially adversely affect the current use of any CIM Property (e.g., if a property is currently used for residential purposes, the current zoning does not materially adversely affect the use of such property for residential purposes), (iii) Liens and Property Restrictions disclosed on existing title reports or existing surveys (in either case copies of which have been delivered or made available to Trust) and (iv) mechanics', carriers', workmen's, repairmen's liens and other Liens, Property Restrictions and other limitations of any kind, if any, which, individually or in the aggregate, are not substantial in amount, do not materially detract from the value of or materially interfere with the present use of any of the CIM Properties subject thereto or affected thereby, and do not otherwise have a CIM Material Adverse Effect and which have arisen or been incurred only in the ordinary course of business. Except as provided on Schedule 5.13 or as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ownership and continued use or operation of any of the CIM Properties, (i) CIM has no knowledge that any certificate, permit or license from any Governmental Entity having jurisdiction over any of the CIM Properties or any agreement, easement or other right which is necessary to permit the lawful use and operation of the buildings and improvements on any of the CIM Properties or which is necessary to permit the lawful use and operation of all driveways, roads and other means of egress and ingress to and from any of the CIM Properties has not been obtained and is not in full force and effect, or of any pending threat of modification or cancellation of any of same and (ii) CIM Partnership has not received written notice of any violation of any federal, state or municipal law, ordinance, order, regulation or requirement affecting any portion of any of the CIM Properties issued by any Governmental Entity. Except as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ownership and continued use or operation of any of the CIM Properties, neither CIM Partnership nor any of the CIM Subsidiaries has received written notice to the effect that (A) any condemnation or rezoning proceedings are pending or threatened with respect to any of the CIM Properties or (B) any zoning, building or similar law, code, ordinance, order or regulation is or will be violated by the continued maintenance, operation or use of any buildings or other improvements on any of the CIM Properties or by the continued maintenance, operation or use of the parking areas.

#### 5.14 *Taxes*.

(a) Except as disclosed on Schedule 5.14 or as would not have a CIM Material Adverse Effect, each of the CIM Partnership and its Subsidiaries has (i) timely filed all Tax returns and reports required to be filed by it (after giving effect to any filing extension properly granted by a Governmental Entity having authority to do so) and all such returns and reports are accurate and complete in all material respects and (ii) timely paid (or the CIM

Partnership has paid on its behalf) all Taxes shown on such returns and reports as required to be paid by it, and the CIM Partnership Year-End Financial Statements reflect an adequate reserve for all material Taxes payable by the CIM Partnership (and by those Subsidiaries of the CIM Partnership whose financial statements are contained therein) for all taxable periods and portions thereof through the date of such financial statements. True, correct and complete copies of all federal, state and local Tax returns and reports for the CIM Partnership and each Subsidiary of the CIM Partnership for all taxable years for which the statutory periods of limitation have not yet expired, and all written communications relating thereto with any Governmental Entity, have been delivered or made available to representatives of Trust. Except as disclosed on Schedule 5.14, neither the CIM Partnership nor any Subsidiary has incurred any liability for taxes under Sections 856(c)(7), 857, 860 or 4981 of the Code, and neither the CIM Partnership nor any of its Subsidiaries has incurred any material liability for Taxes other than in the ordinary course of business. To the knowledge of CIM, no event has occurred, and no condition or circumstance exists, which presents a material risk that any material Tax described in the preceding sentence will be imposed upon the CIM Partnership or any CIM Subsidiary, other than CIM Subsidiaries which are taxable REIT subsidiaries as defined under Section 856(l) of the Code. Except as set forth on Schedule 5.14, to the knowledge of CIM, no deficiencies for any Taxes have been proposed, asserted or assessed against the CIM Partnership or any of its Subsidiaries, and no requests for waivers of the time to assess any such Taxes are pending. CIM Merger Sub is, and since its formation has been a disregarded entity for federal income tax purposes. As used in this Agreement, "Taxes" shall include all federal, state, local and foreign income, franchise, property, sales, employment, withholding, excise and other taxes, tariffs or governmental charges of any nature whatsoever, together with penalties, interest or additions to Tax with respect thereto.

(b) Each of the Subsidiaries of the CIM Partnership designated as a REIT on Schedule 5.2 (each such Subsidiary, a "REIT Subsidiary") (i)(A) is, and since its election, has been taxable as, a REIT, and is, and since its election has been, entitled to the benefits available under the provisions of Part II of Subchapter M of the Code, and (B) has paid dividends during each of its taxable years for which the statute of limitations has not expired in an amount sufficient to satisfy Section 857(a)(1)(A) of the Code and reduce its excise tax liabilities to zero for such years, (ii) has operated in such a manner that it would qualify as a REIT for the taxable year ending on the Closing Date if, hypothetically, its taxable year ended on the Closing Date, and (iii) has not taken or omitted to take any action which would reasonably be expected to result in a challenge to its status as a REIT by the Internal Revenue Service, and to CIM's knowledge, no such challenge is pending or threatened. The CIM Partnership and each Subsidiary of the CIM Partnership (other than a REIT Subsidiary) which is a partnership, joint venture or limited liability company (that has not joined with CIM or such REIT Subsidiary in making an election to be a taxable REIT subsidiary in accordance with Section 856(l) of the Code) since its formation has been and continues to be treated for federal income tax purposes as a partnership or a disregarded entity and not as a corporation or an association taxable as a corporation.

5.15 *No Payments to Employees, Officers or Directors.* Except as set forth on Schedule 5.15 or as otherwise specifically provided for in this Agreement, there is no employment or severance contract, or other agreement requiring payments to be made or increasing any amounts payable thereunder on a change of control or otherwise as a result of the consummation of any of the Transactions, with respect to any employee, officer or director of the CIM Partnership or any of its Subsidiaries.

5.16 *Brokers; Schedule of Fees and Expenses.* No broker, investment banker, financial advisor or other person is or may be entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Transactions based upon arrangements made by or on behalf of CIM or any CIM Subsidiary.

5.17 *Compliance with Laws.* Except as set forth on Schedule 5.17, neither CIM Partnership nor any of the CIM Subsidiaries has violated or failed to comply with any Laws applicable to its business, properties or operations, except for violations and failures to comply that would not, individually or in the aggregate, reasonably be expected to result in a CIM Material Adverse Effect.

5.18 *Contracts*. Schedule 5.18 lists each of the following written Contracts of the CIM Partnership and the CIM Subsidiaries (such Contracts as described in this Section 5.18 being the “CIM Material Contracts”):

(a) each Contract (other than a lease for real property) that is not terminable without penalty on thirty (30) days’ notice by the CIM Partnership or any CIM Subsidiary and provides for payment by the CIM Partnership or any CIM Subsidiary of more than \$7,500,000 per year, including any such Contracts with customers or clients;

(b) each loan relating to indebtedness for borrowed money having an outstanding amount or borrowing availability per year in excess of \$7,500,000 under such loan;

(c) any Contract pursuant to which the CIM Partnership or any CIM Subsidiary is obligated to provide funds to or make any loan, capital contribution, or other investment in, or assume any liability or obligation of, any Person other than a wholly-owned Subsidiary of CIM or Joint Venture in excess of \$7,500,000, including take-or-pay contracts or keepwell agreements;

(d) any Contract with any CIM Related Party under which there are any existing or future obligations or liabilities in excess of \$250,000 per year;

(e) any employment, change in control, retention or severance Contract;

(f) to the knowledge of CIM, except as set forth in the Joint Venture Agreements, any Contract that materially limits, or purports to materially limit, the ability of the CIM Partnership or any CIM Subsidiary to compete in any line of business or with any Person or in any geographic area or during any period of time, or that materially restricts the right of the CIM Partnership or any CIM Subsidiary to sell to or purchase from any Person, or any Contract that is material to the CIM Partnership and the CIM Subsidiaries, taken as a whole, and that grants the other party or any third person “most favored nation” status or any type of special rights;

(g) any executory Contract entered into in the past two years or in respect of which the applicable transaction had not been consummated for the sale or purchase of any real property, or for the sale or purchase of any tangible personal property, in an amount in excess of \$7,500,000;

(h) any material hedging, futures, options, or other derivative Contract in an amount in excess of \$7,500,000 per year;

(i) any Contract involving the purchase of any debt or equity security or other ownership interest of any Person in excess of \$7,500,000, or the issuance of any debt or equity security or other ownership interest in excess of \$7,500,000, or the conversion of any obligation, instrument, or security into debt or equity securities or other ownership interests of, the CIM Partnership or any CIM Subsidiary in excess of \$7,500,000; and

(j) any Contract relating to settlement of any administrative or judicial proceedings within the past five years in an amount in excess of \$7,500,000.

(k) Each CIM Material Contract is valid and binding on the CIM Partnership or CIM Subsidiary party thereto and, to the knowledge of CIM, the counterparties thereto, and is in full force and effect. Except for such breaches and defaults as, individually or in the aggregate, would not reasonably be expected to have a CIM Material Adverse Effect, neither the CIM Partnership nor any CIM Subsidiary, and to the knowledge of CIM, no other party, is in breach of, or default under, any CIM Material Contract. CIM has delivered or made available to Trust true and complete copies of all CIM Material Contracts, including any amendments thereto.

5.19 *Registration Statement and Proxy Statement*. The information supplied or to be supplied by CIM, CIM Merger Sub or any of the CIM Subsidiaries for inclusion in (a) the Registration Statement (as defined in Section 6.5 hereof) will not at the time of filing or at the time the Registration Statement becomes effective under the Securities Act contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading or (b) the Proxy Statement, including any amendments and supplements thereto, will not, either at the date the Proxy Statement is mailed to shareholders of Trust or at the time of the Trust Shareholder Meeting, contain any untrue statement of a material

fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

5.20 *Insurance*. Schedule 5.20 sets forth a true and complete list of all material casualty, general liability, product liability, and all other types of insurance policies maintained with respect to the CIM Partnership and the CIM Subsidiaries (the “CIM Insurance Policies”), together with the carriers and liability limits for each such CIM Insurance Policy. All such CIM Insurance Policies are in full force and effect and no application therefor included a material misstatement or omission. All premiums with respect thereto have been paid to the extent due. Neither the CIM GP, the CIM Partnership nor any CIM Subsidiary has received notice of, nor to the knowledge of CIM is there threatened, any cancellation, termination or reduction of coverage with respect to any CIM Insurance Policy. No claim currently is pending under any CIM Insurance Policy involving an amount in excess of \$7,500,000. Schedule 5.20 identifies which CIM Insurance Policies are “occurrence” or “claims made” and which Person is the policy holder. The consummation of the Transactions will not cause a cancellation or reduction in the coverage of any CIM Insurance Policy.

5.21 *Sufficient Funds*. At the Effective Time, as set forth on Schedule 5.21, the CIM Partnership as a subsidiary of Trust will have sufficient cash available to pay the Closing Dividend pursuant to Section 4.2 and 8.19 and any and all other amounts required to be paid in connection with the consummation of the Transactions contemplated by this Agreement, and any related fees and expenses.

5.22 *Ownership of Trust Common Shares*. Neither CIM, the CIM Partnership nor to the knowledge of CIM, any Affiliate thereof owns any Trust Common Shares on the date of this Agreement or immediately prior to the Effective Date.

## **ARTICLE VI REPRESENTATIONS AND WARRANTIES OF TRUST AND TRUST MERGER SUB**

Except as provided in Section 11.11 or the disclosure schedules attached hereto (the “Trust Disclosure Schedules” and, collectively with the CIM Disclosure Schedules, the “Schedules”), which shall be arranged in paragraphs corresponding to the numbered and lettered paragraphs contained in this Article VI and that may be amended from time to time pursuant to the provisions hereof, Trust and Trust Merger Sub represent and warrant to CIM and CIM Merger Sub as follows:

6.1 *Organization, Standing and Power*. Trust is a real estate investment trust duly organized and validly existing under the laws of the State of Texas and has the requisite power and authority to carry on its business as now being conducted. Trust Merger Sub is a limited liability company validly existing under the laws of the State of Delaware and has the requisite limited liability power and authority to carry on its business as now conducted. Each of Trust and Trust Merger Sub is duly qualified or licensed to do business and, where applicable, is in good standing in each jurisdiction in which the nature of its business makes such qualification or licensing necessary, other than in such jurisdictions where the failure to be so qualified or licensed, individually or in the aggregate, would not have a material adverse effect on the business, properties, assets, financial condition or results of operations of Trust and the Trust Subsidiaries taken as a whole but excluding therefrom any such change, effect, event, occurrence or state of facts resulting from or arising in connection with (a) changes or conditions generally affecting the industries in which Trust operates, (b) this Agreement, the Transactions or the announcement thereof or (c) any change or effect resulting from any change in general economic conditions (a “Trust Material Adverse Effect”). Trust has delivered to CIM or its counsel complete and correct copies of the organizational documents of Trust and Trust Merger Sub, each amended to the date of this Agreement.

### 6.2 *Trust Subsidiaries*.

(a) Schedule 6.2 hereto sets forth each Trust Subsidiary and the ownership interest therein of Trust. Schedule 6.2 sets forth, for each Trust Subsidiary, its jurisdiction of organization or formation, the amount of its

authorized capital stock or other equity interests, the amount of its outstanding capital stock or other equity interests, and the names of the record and beneficial owners of its outstanding capital stock or other equity interests. Except for the equity interests set forth on Schedule 6.2, none of the Trust Subsidiaries have issued or agreed to issue any: (a) share of capital stock or other equity or ownership interest; (b) option, warrant or interest convertible into or exchangeable or exercisable for the purchase of shares of capital stock or other equity or ownership interests; (c) stock appreciation right, phantom stock, interest in the ownership or earnings of a Trust Subsidiary or other equity equivalent or equity-based award or right; or (d) bond, debenture or other indebtedness having the right to vote or convertible or exchangeable for securities having the right to vote. Except for rights granted to CIM and the CIM Merger Sub under this Agreement, there are no outstanding obligations of any Trust Subsidiary to issue, sell, or transfer or repurchase, redeem, or otherwise acquire, or that relate to the holding, voting, or disposition of or that restrict the transfer of, the issued or unissued capital stock or other equity or ownership interests of any Trust Subsidiaries. Except as set forth on Schedule 6.2, (a) all the outstanding shares of capital stock of each Trust Subsidiary that is a corporation (i) have been validly issued, (iii) are fully paid and nonassessable, and (iii) are owned, beneficially and of record, directly by Trust or by another Trust Subsidiary free and clear of all Liens and (b) all equity interests in each Trust Subsidiary that is a partnership, joint venture, limited liability company or trust are owned by Trust, by another Trust Subsidiary, by Trust and another Trust Subsidiary or by two or more Trust Subsidiaries free and clear of all Liens. There are no outstanding contractual obligations of any Trust Subsidiary to provide funds to, or make any investment in, any other Person. Except for the capital stock of or other equity or ownership interests in Trust Subsidiaries, and except as set forth on Schedule 6.2, neither Trust nor any Trust Subsidiary owns, directly or indirectly, any capital stock or other ownership interest in any other Person. Each Trust Subsidiary that is a corporation is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has the requisite corporate power and authority to carry on its business as now being conducted, and each Trust Subsidiary that is a partnership, limited liability company or trust is duly organized and validly existing under the laws of its jurisdiction of organization and has the requisite power and authority to carry on its business as now being conducted. Except as set forth on Schedule 6.2, each Trust Subsidiary is duly qualified or licensed to do business and, where applicable, is in good standing in each jurisdiction in which the nature of its business or the ownership or leasing of its properties makes such qualification or licensing necessary, other than in such jurisdictions where the failure to be so qualified or licensed, individually or in the aggregate, would not have a Trust Material Adverse Effect.

(b) All of the outstanding equity interests in Trust Merger Sub are owned directly by Trust, free and clear of all Liens, transfer restrictions, voting agreements or other agreements with respect to the ownership, voting, control, or other transfer of such equity or other ownership interests. Since the date of its formation, Trust Merger Sub has not carried on any business or conducted any operations other than execution of this Agreement and the performance of its obligations hereunder. Trust Merger Sub was incorporated solely for the consummation of the Merger.

6.3 *Capital Structure*. The authorized capital of Trust consists of 100,000,000 shares of beneficial interest, consisting of Trust Common Shares and preferred shares, par value \$.01 per share (the "Preferred Shares"). On the date hereof, (a) 10,596,220 Trust Common Shares and no Preferred Shares were issued and outstanding, (b) 536,329 Trust Common Shares and no Preferred Shares were held by Trust in its treasury and (c) 98,500 Trust Common Shares were issuable upon exercise of outstanding Trust Options issued under the Incentive Plan. On the date of this Agreement, except as set forth above in this Section 6.3, no capital shares or other voting securities of Trust were issued, reserved for issuance or outstanding. There are no outstanding share appreciation rights relating to the capital shares of Trust. All outstanding capital shares of Trust are duly authorized, validly issued, fully paid and nonassessable and not subject to preemptive rights. There are no bonds, debentures, notes or other indebtedness of Trust having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which shareholders of Trust may vote. Except (i) for the Trust Options or (ii) as set forth on Schedule 6.3, as of the date of this Agreement there are no outstanding securities, options, warrants, calls, rights, commitments, agreements, arrangements or undertakings of any kind to which Trust or any Trust Subsidiary is a party or by which such entity is bound, obligating Trust or any Trust Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock, voting securities

or other ownership interests of Trust or any Trust Subsidiary or obligating Trust or any Trust Subsidiary to issue, grant, extend or enter into any such security, option, warrant, call, right, commitment, agreement, arrangement or undertaking (other than to Trust or an Trust Subsidiary). Except as set forth on Schedule 6.3, there are no outstanding contractual obligations of Trust or any Trust Subsidiary to repurchase, redeem or otherwise acquire any capital shares of Trust or any capital stock, voting securities or other ownership interests in any Trust Subsidiary or make any material investment (in the form of a loan, capital contribution or otherwise) in any person (other than a Trust Subsidiary).

*6.4 Authority; Noncontravention.*

(a) Each of Trust and Trust Merger Sub has the requisite power and authority to enter into this Agreement and, subject to the Trust Shareholder Approvals (as defined herein), to consummate the Transactions to which it is a party. The execution and delivery of this Agreement by each of Trust and Trust Merger Sub and the consummation by each of Trust and Trust Merger Sub of the Transactions to which it is a party have been duly authorized by all necessary action on the part of Trust, subject to approval of this Agreement and the Transactions pursuant to Trust Shareholder Approvals. Except as set forth on Schedule 6.4, the execution and delivery of this Agreement by Trust and Trust Merger Sub do not, and the consummation of the Transactions to which it is a party and compliance by Trust and Trust Merger Sub with the provisions of this Agreement will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any Lien upon any of the properties or assets of Trust and Trust Merger Sub or any Trust Subsidiary under, or give rise to any increased, additional, accelerated or guaranteed rights or entitlements under or require any consent, waiver or approval of any Person pursuant to any provision of (a) the Declaration of Trust (as amended, the "Declaration of Trust") or the Bylaws of Trust or the comparable charter or organizational documents or partnership or similar agreement (as the case may be) of Trust Merger Sub or any other Trust Subsidiary, (b) any Contract applicable to Trust, Trust Merger Sub or any Trust Subsidiary or their respective properties or assets or (c) subject to the governmental filings and other matters referred to in Section 6.5, any Laws applicable to Trust, Trust Merger Sub or any other Trust Subsidiary, or their respective properties or assets, other than, in the case of clause (b) or (c), any such conflicts, violations, defaults, rights or Liens that individually or in the aggregate would not (i) have a Trust Material Adverse Effect or (ii) prevent the consummation of the Transactions.

(b) As of the date hereof, the Board of Trust Managers of Trust has, by resolutions duly adopted at a meeting duly called and held, which resolutions have not been rescinded, modified or withdrawn as of the time of the execution and delivery of this Agreement, by unanimous vote of those directors present and voting (i) determined that the Transactions, including the Merger and the Trust Common and Preferred Shares Issuance, are fair to, and in the best interests of, Trust and its shareholders, (ii) approved this Agreement and the Transactions, including the Merger and the Trust Common and Preferred Shares Issuance, and (iii) has resolved, subject to the terms of this Agreement, to recommend approval of the Trust Common and Preferred Shares Issuance to Trust's shareholders (the "Trust Recommendation"), (iv) waived CIM and its Affiliates from the ownership limitation of Trust Common Shares in the Declaration of Trust of Trust by providing that CIM and its Affiliates are each an "Excepted Person" (as defined in the Declaration of Trust) and (v) directed that the Trust Common and Preferred Shares Issuance be submitted to Trust's shareholders for their approval at a shareholders' meeting duly called and held for such purpose.

*6.5 Consents.* No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to Trust or any Trust Subsidiary in connection with the execution and delivery of this Agreement by Trust or the consummation by Trust of the Transactions to which it is a party, except for (a) the filing by any person in connection with any of the Transactions of a pre-merger notification and report form under the HSR Act, to the extent applicable; (b) compliance with any applicable requirements of (i) the Securities Act and the rules and regulations promulgated thereunder, including, without limitation, the filing with the SEC of a registration statement on Form S-4 (or other appropriate form) in connection with the registration of the Trust Common Shares and the Trust Preferred Shares to be issued in the Merger (as amended from time to time, the "Registration Statement"), (ii) the Exchange Act and the rules and

regulations promulgated thereunder, including, without limitation, the filing with the SEC of the Proxy Statement and (iii) the NYSE or other applicable national securities exchange; (c) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware; (d) compliance with any applicable requirements of the 1958 Act, the Small Business Investment Act and any other applicable requirements, rules, or regulations of the of the SBA; and (e) such other consents, approvals, orders, authorizations, registrations, declarations and filings (i) as are set forth on Schedule 6.5, (ii) as may be required under (A) federal, state or local environmental laws or (B) the “blue sky” laws of various states or (iii) which, if not obtained or made, would not prevent or delay in any material respect the consummation of any of the Transactions or otherwise prevent Trust from performing its obligations under this Agreement in any material respect. Notwithstanding the foregoing, the representations and warranties in this Section 6.5 do not include any representation or warranty regarding any transfer tax declarations, property tax assessments, reassessments or similar documents consents.

*6.6 SEC Documents; Financial Statements; Undisclosed Liabilities.*

(a) Trust has filed with or furnished to the SEC all required reports, schedules, forms, exhibits, statements and other documents since December 31, 2011 (the “Trust SEC Documents”). All of the Trust SEC Documents (other than preliminary material), as of their respective filing dates, complied in all material respects with all applicable requirements of the Securities Act and the Exchange Act and, in each case, the rules and regulations promulgated thereunder applicable to such the Trust SEC Documents. None of the Trust SEC Documents at the time of filing and effectiveness contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, except to the extent such statements have been modified or superseded by later the Trust SEC Documents. The consolidated financial statements of Trust included in the Trust SEC Documents complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with GAAP (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly presented in all material respects in accordance with the applicable requirements of GAAP, the financial position of Trust as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal and recurring year-end audit adjustments).

(b) Trust has made available to CIM copies of all comment letters received by Trust from the Staff of the SEC since January 1, 2011 through the date of this Agreement and all responses to such comment letters by or on behalf of Trust. To the knowledge of Trust, there are no outstanding or unresolved comments from the SEC with respect to any of the Trust SEC Documents.

(c) Schedule 6.6 sets forth a list of any material joint venture, off balance sheet partnership or any similar contract or arrangement to which Trust, or any Trust Subsidiary is a party (including any contract relating to any transaction or relationship between or among Trust and any of the Trust Subsidiaries, on the one hand, and any unconsolidated affiliate of Trust or any of the Trust Subsidiaries, including any structured finance, special purpose or limited purpose entity or Person, on the other hand, or any “off-balance sheet arrangements” (as defined in Item 303(a) of Regulation S-K of the SEC)).

(d) The audit committee of the Trust Board of Managers has established “whistleblower” procedures that meet the requirements of Exchange Act Rule 10A-3 in all material respects, and has made available to CIM true, complete and correct copies of such procedures. Neither Trust nor any Trust Subsidiary, nor to the knowledge of Trust, any director, officer, employee, advisor, accountant or representative of Trust, any Trust Subsidiary or any party providing accounting or financial advisory services to Trust or any Trust Subsidiary has received any material “complaints” (within the meaning of Exchange Act Rule 10A-3) in respect of any accounting, internal accounting controls or auditing matters. To Trust’s knowledge, no material complaint seeking relief under Section 806 of the Sarbanes-Oxley Act of 2002 (“SOX”) has been filed with the United States Secretary of Labor and no employee has threatened to file any such complaint.

(e) Trust’s Chief Executive Officer and Chief Financial Officer have made all certifications and statements required by Sections 302 and 906 of SOX and the related rules and regulations promulgated



thereunder with respect to the Trust SEC Documents. Trust and the Trust Subsidiaries maintain a system of “disclosure controls and procedures” (as defined in Rule 13a-15 of the Exchange Act) that it files or submits under the Exchange Act is, in all material respects, recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to Trust’s management as appropriate to allow timely decisions regarding required disclosure. Since January 1, 2011, Trust and the Trust Subsidiaries have carried out evaluations of the effectiveness of their disclosure controls and procedures in material compliance with Rule 13a-15 of the Exchange Act.

(f) Trust and the Trust Subsidiaries maintain systems of “internal control over financial reporting” (as defined in Rule 13a-15(f) of the Exchange Act) that comply in all material respects with the requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or Persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Except as would not reasonably be expected to have a Trust Material Adverse Effect, Trust and the Trust Subsidiaries maintain internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(g) Except as set forth on Schedule 6.6 or as permitted by Section 7.2 (for the purposes of this sentence, as if Section 7.2 had been in effect since December 31, 2012), neither Trust nor any Trust Subsidiary has any material liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) required by GAAP to be set forth on a consolidated balance sheet of Trust or, to the knowledge of Trust, of any unconsolidated Trust Subsidiary or in the notes thereto other than any such liabilities or obligations incurred since December 31, 2012 in the ordinary course of business consistent with past practice of Trust and the Trust Subsidiaries. For purposes of this Agreement, the term “knowledge” (and derivation terms thereof) with respect to Trust shall mean the actual knowledge of the Persons set forth in Schedule 6.6 and shall include the actual knowledge of such Persons gained through their participation in the business and operations of Trust and the Trust Subsidiaries.

*6.7 Binding Effect.* This Agreement has been duly executed and delivered by, and constitutes a valid and binding obligation of, Trust enforceable against Trust in accordance with its terms as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws affecting the enforcement of creditors’ rights generally or by general equitable principles (regardless of whether such enforcement is sought in a proceeding in equity or at law).

*6.8 Absence of Certain Changes or Events.* Except as disclosed on Schedule 6.8, since December 31, 2012 and to the date of this Agreement, Trust and the Trust Subsidiaries have conducted their business only in the ordinary course and there has not been (a) any change, event, occurrence or effect that individually or in the aggregate, has had or would reasonably be expected to have a Trust Material Adverse Effect (a “Trust Material Adverse Change”), nor has there been any occurrence or circumstance that with the passage of time would reasonably be expected to result in a Trust Material Adverse Change, (b) except for regular quarterly dividends not in excess of \$0.125 per Trust Common Share, any declaration, setting aside or payment of any dividend or other distribution (whether in cash, shares or property) with respect to any of Trust’s capital shares, other than the dividend paid pursuant to Section 4.2, (c) any split, combination or reclassification of any of Trust’s capital shares or any issuance or the authorization of any issuance of any other securities in respect of, in lieu of or in substitution for, or giving the right to acquire by exchange or exercise, of its capital shares or any issuance of an ownership interest in, any Trust Subsidiary except as permitted by Section 7.2, (d) any damage, destruction or loss, not covered by insurance, that has or would have a Trust Material Adverse Effect or (e) any change in accounting methods, principles or practices by Trust or any Trust Subsidiary, except insofar as may have been required by a change in GAAP.

6.9 *Litigation*. Except as disclosed on Schedule 6.9, there is no suit, action or proceeding pending or threatened in writing against Trust or any Trust Subsidiary that, individually or in the aggregate, could reasonably be expected to (a) have a Trust Material Adverse Effect or (b) affect the legality, validity or enforceability of this Agreement of any of the other Transaction Documents or prevent the consummation of any of the Transactions, nor is there any judgment, decree, injunction, rule or order of any Governmental Entity or arbitrator outstanding against Trust or any Trust Subsidiary having, or which, insofar as reasonably can be foreseen, in the future would have a Trust Material Adverse Effect.

6.10 *Environmental Matters*.

(a) Except as set forth in Schedule 6.10, (i) neither Trust nor any Trust Subsidiary has ever generated, treated or disposed of any Hazardous Substance in violation of any Environmental, Health and Safety Law or otherwise, violated any Environmental, Health and Safety Law, except for matters that individually, or in the aggregate, would not be material to Trust and the Trust Subsidiaries, taken as a whole; (ii) neither Trust nor any Trust Subsidiary has any liability under any Environmental, Health and Safety law that individually or in the aggregate, would be material to Trust and the Trust Subsidiaries, taken as a whole; and (iii) to Trust's knowledge, each of Trust and the Trust Subsidiaries is in compliance in all material respects with all applicable Environmental, Health and Safety Laws. Neither Trust nor any Trust Subsidiary has ever entered into nor been subject to any judgment, consent decree, compliance order, or administrative order with respect to any environmental or health and safety matter nor received any demand letter, formal complaint or claim with respect to any environmental or health and safety matter, or the enforcement of any Environmental, Health and Safety Law, in either case, imposing material liability on Trust and its Subsidiaries, taken as a whole.

(b) Except as set forth in Schedule 6.10 or for matters that, individually or in the aggregate, would not reasonably be expected to have a Trust Material Adverse Effect, (i) during Trust's or any of its Subsidiaries' ownership or operation of any real property, and to the knowledge of Trust prior to such ownership or operation, no release, leak, discharge, spill, disposal, migration or emission of Hazardous Substances has occurred in, on, under or from any of such real property in a quantity or manner that violates or requires reporting, monitoring, investigation or remediation under any applicable Environmental, Health and Safety Law; (ii) the real property owned or operated by Trust or any of its Subsidiaries is free of Hazardous Substances as of the date of this Agreement, except for the presence of small quantities of Hazardous Substances utilized, maintained stored and disposed in the ordinary course of the business operations thereon and in compliance with Environmental, Health and Safety Laws and (iii) no underground storage tanks are present at any real property owned or operated by Trust or any of its Subsidiaries. To the knowledge of Trust, no claim has been made and is pending or is threatened alleging any material liability of any party with respect to or arising from any Hazardous Substances on, under, about or from any real property owned or operated or formerly owned or operated by Trust or any of its Subsidiaries.

6.11 *Related Party Transactions*. Except as set forth on Schedule 6.11, to the knowledge of Trust, no present or former director, executive officer, stockholder, partner, member, employee, or Affiliate of Trust or any of such Person's Affiliates or immediate family members (each of the foregoing, a "Trust Related Party"), is a party to any Contract with or binding upon Trust, any Trust Subsidiary or any of their respective properties or assets under which there are any existing or future obligations or liabilities or has any interest in any property owned by Trust or any Trust Subsidiary, (in each case, a "Trust Affiliate Transaction"). To the knowledge of Trust, no Trust Related Party owns, directly or indirectly, on an individual or joint basis, any interest in, or serves as an officer or director or in another similar capacity of, any supplier or other independent contractor of Trust or any Trust Subsidiary, or any organization which has a Contract with Trust or any Trust Subsidiary. Copies of all such Contracts have been previously delivered or made available to CIM.

6.12 *Absence of Changes in Benefit Plans; ERISA Compliance*.

(a) Except as disclosed on Schedule 6.12(a), neither Trust nor any of its Subsidiaries has any bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase,

stock option, phantom stock, retirement, vacation, severance, disability, death benefit, hospitalization, medical or other employee benefit plan, arrangement or understanding (whether or not legally binding, or oral or in writing) providing benefits to any current or former employee, officer or director of Trust, any of its Subsidiaries or any person affiliated with Trust under Section 414(b), (c), (m) or (o) of the Code (collectively, "Trust Benefit Plans").

(b) Except as described on Schedule 6.12(b) or as would not have a Trust Material Adverse Effect, (i) all Trust Benefit Plans, including any such plan that is an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), are in compliance with all applicable requirements of law, including ERISA and the Code, and (ii) neither Trust nor any of its Subsidiaries has any liabilities or obligations with respect to any such Trust Benefit Plan, whether accrued, contingent or otherwise, nor to the knowledge of Trust are any such liabilities or obligations expected to be incurred. Except as set forth on Schedule 6.12(b), the execution of, and performance of the Transactions in, this Agreement will not (either alone or upon the occurrence of any additional or subsequent events) constitute an event under any Trust Benefit Plan, policy, arrangement or agreement or any trust or loan that will or may result in any payment (whether of severance pay or otherwise), acceleration, forgiveness of indebtedness, vesting, distribution, increase in benefits or obligation to fund benefits with respect to any employee or director. The only severance agreements or severance policies applicable to Trust or its Subsidiaries are the agreements and policies specifically referred to on Schedule 6.12(b).

#### 6.13 Loans.

(a) All loans and other extensions of credit (including commitments to extend credit) by Trust and its Subsidiaries (each a "Loan") are and were originated in compliance with all Laws applicable to such Loans, except for failures to comply that would not, individually or in the aggregate, reasonably be expected to result in a Trust Material Adverse Effect.

(b) Each outstanding Loan was solicited and originated, and is and has been administered and, where applicable serviced, and relevant loan files are being maintained, in all material respects in accordance with the relevant notes or other credit or security documents, the underwriting standards of Trust and its Subsidiaries and with all applicable requirements of Law.

(c) Schedule 6.13 identifies (A) each Loan that, as of May 31, 2013, was contractually past due thirty (30) days or more in the payment of principal and/or interest, (B) each Loan that, as of March 31, 2013, (i) was classified as "OAEM," "substandard," "doubtful," or "special mention" (or words of similar import) by Trust, any of its Subsidiaries or the rules of any applicable regulatory authority, (ii) was on non-accrual status, (iii) where the interest rate terms had been reduced and/or the maturity dates had been extended subsequent to the agreement under which such Loan was originally created due to concerns regarding the borrower's ability to pay in accordance with such initial terms, (iv) where a specific reserve allocation existed in connection therewith or (v) which was required to be accounted for as a troubled debt restructuring in accordance with ASC 310, and (C) each asset of Trust or any of its Subsidiaries that, as of March 31, 2013 was classified as other real estate owned or as an asset to satisfy Loans. For each Loan identified in response to clause (A) above, Schedule 6.13 sets forth the outstanding balance, including accrued and unpaid interest, on each such Loan and the identity of the borrower thereunder as of May 31, 2013, and for each Loan identified in response to clause (B) above, Schedule 6.13 sets forth the outstanding balance, including accrued and unpaid interest, on each such Loan and the identity of the borrower thereunder as of March 31, 2013.

(d) To the knowledge of Trust, each outstanding Loan (i) is evidenced by notes, agreements or other evidences of indebtedness that are true, genuine and what they purport to be, (ii) to the extent secured, has been secured by valid Liens which have been perfected and (iii) is a legal, valid and binding obligation of the obligor named therein, enforceable in accordance with its terms as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws affecting the enforcement of creditors' rights generally or by general equitable principles (regardless of whether such enforcement is sought in a proceeding in equity or at law).

(e) Trust originates loans directly and indirectly through the following Subsidiaries: First Western SBLC, Inc. (“First Western”); PMC Investment Corporation (“PMCIC”); and Western Financial Corporation (“Western Financial”). First Western is licensed as a small business lending company (“SBLC”) that originates loans through the SBA’s 7(a) Guaranteed Loan Program (“SBA 7(a) Program”) and has been granted Preferred Lender Program (“PLP”) status by the SBA. PMCIC and Western Financial are licensed as small business investment companies (“SBICs”). Except as provided on Schedule 6.13, (i) neither Trust nor any of its Subsidiaries has knowledge to the effect that (A) First Western’s SBLC license or PLP status may not continue in full force and effect for any reason, (B) any guarantees by the SBA of Loans under the SBA 7(a) Program may be rejected or (C) PMCIC’s or Western Financial’s SBIC license may not continue in full force and effect for any reason. Neither Trust nor any of its Subsidiaries has received written notice from any Governmental Entity that could impact its ability to continue to originate Loans as currently conducted.

(f) Trust’s allowance for Loan losses is, and shall be as of the Effective Time, determined in compliance in all material respects with Trust’s methodology for determining its allowance for Loan losses and, to Trust’s knowledge, is adequate as provided under the standards established by applicable Governmental Entities and the Financial Accounting Standards Board.

#### 6.14 Taxes.

(a) Except as disclosed on Schedule 6.14 or as would not have a Trust Material Adverse Effect, each of Trust and each Trust Subsidiary has (i) timely filed all Tax returns and reports required to be filed by it (after giving effect to any filing extension properly granted by a Governmental Entity having authority to do so) and all such returns and reports are accurate and complete in all material respects and (ii) timely paid (or Trust has paid on its behalf) all Taxes shown on such returns and reports as required to be paid by it, and the most recent financial statements contained in the Trust SEC Documents reflect an adequate reserve for all material Taxes payable by Trust (and by those Trust Subsidiaries whose financial statements are contained therein) for all taxable periods and portions thereof through the date of such financial statements. True, correct and complete copies of all federal, state and local Tax returns and reports for Trust and each Trust Subsidiary for all taxable years for which the statutory periods of limitation have not yet expired, and all written communications relating thereto with any Governmental Entity, have been delivered or made available to representatives of CIM. Except as disclosed on Schedule 6.14, Trust has incurred no liability for taxes under Sections 856(c)(7), 857, 860 or 4981 of the Code, and neither Trust nor any Trust Subsidiary has incurred any material liability for Taxes other than in the ordinary course of business. To the knowledge of Trust, no event has occurred, and no condition or circumstance exists, which presents a material risk that any material Tax described in the preceding sentence will be imposed upon Trust or any Trust Subsidiary. Except as set forth on Schedule 6.14, to the knowledge of Trust, no deficiencies for any Taxes have been proposed, asserted or assessed against Trust or any of the Trust Subsidiaries, and no requests for waivers of the time to assess any such Taxes are pending.

(b) Trust (i)(A) is, and since its election has been taxable as, a REIT, and is, and since its election has been, entitled to the benefits available under the provisions of Part II of Subchapter M of the Code, and (B) has paid dividends during each of its taxable years for which the statute of limitations has not expired in amounts sufficient to satisfy Section 857(a)(i)(A) of the Code and reduce its excise tax liabilities to zero for such years, (ii) has operated in such a manner that it would qualify as a REIT for the taxable year ending on the Closing Date if, hypothetically, its taxable year ended on the Closing Date and (iii) has not taken or omitted to take any action which would reasonably be expected to result in a challenge to its status as a REIT by the Internal Revenue Service, and to Trust’s knowledge, no such challenge is pending or threatened. Each Trust Subsidiary which is a partnership, joint venture or limited liability company (that has not joined with Trust in making an election to be a taxable REIT subsidiary in accordance with Section 856(l) of the Code) since its formation has been and continues to be treated for federal income tax purposes as a partnership or a disregarded entity and not as a corporation or an association taxable as a corporation.

6.15 *No Payments to Employees, Officers or Trust Managers.* Except as set forth on Schedule 6.15 or as otherwise specifically provided for in this Agreement, there is no employment or severance contract, or other agreement requiring payments to be made or increasing any amounts payable thereunder on a change of control

or otherwise as a result of the consummation of any of the Transactions, with respect to any employee, officer, trust manager or director of Trust or any Trust Subsidiary.

6.16 *Brokers; Schedule of Fees and Expenses.* Except as previously disclosed in writing to CIM, no broker, investment banker, financial advisor or other person, other than Sandler O'Neill, the fees and expenses of which have previously been disclosed to CIM, is or may be entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Transactions based upon arrangements made by or on behalf of Trust or any Trust Subsidiary.

6.17 *Compliance with Laws.* Except as set forth on Schedule 6.17, neither Trust nor any of the Trust Subsidiaries has violated or failed to comply with any Laws applicable to its business, properties or operations, except for violations and failures to comply that would not, individually or in the aggregate, reasonably be expected to result in a Trust Material Adverse Effect.

6.18 *Contracts.* Schedule 6.18 lists each of the following written Contracts of Trust and the Trust Subsidiaries, other than Contracts relating to Loans (such Contracts as described in this Section 6.18 being the "Trust Material Contracts"):

(a) each Contract that is not terminable without penalty on thirty (30) days' notice by Trust or any Trust Subsidiary and provides for receipt or payment by Trust or any Trust Subsidiary of more than \$250,000 per year, including any such Contracts with customers or clients;

(b) each loan relating to indebtedness for borrowed money having an outstanding amount or borrowing availability in excess of \$250,000 under such loan;

(c) any Contract pursuant to which Trust or any Trust Subsidiary is obligated to provide funds to or make any loan, capital contribution, or other investment in, or assume any liability or obligation of, any Person other than a wholly-owned Trust Subsidiary in excess of \$250,000, including take-or-pay contracts or keepwell agreements;

(d) any Contract with any Trust Related Party under which there are any existing or future obligations or liabilities;

(e) any employment, change of control, retention or severance Contract;

(f) to the knowledge of Trust, any Contract that materially limits, or purports to materially limit, the ability of Trust or any Trust Subsidiary to compete in any line of business or with any Person or in any geographic area or during any period of time, or that materially restricts the right of Trust or any Trust Subsidiary to sell to or purchase from any Person or to hire any Person, or any Contract that is material to Trust or any of its Trust Subsidiaries, and that grants the other party or any third person "most favored nation" status or any type of special rights;

(g) any contract that requires a consent to or otherwise contains a provision relating to a "change of control," or that would prohibit or delay the consummation of the Transactions;

(h) any executory Contract entered into in the past two years or in respect of which the applicable transaction had not been consummated for the sale or purchase of any real property, or for the sale or purchase of any tangible personal property, in an amount in excess of \$250,000;

(i) any material hedging, futures, options, or other derivative Contract in an amount in excess of \$250,000;

(j) any Contract involving the purchase of any debt or equity security or other ownership interest of any Person in excess of \$250,000, or the issuance of any debt or equity security or other ownership interest in excess of \$250,000, or the conversion of any obligation, instrument, or security into debt or equity securities or other ownership interests of, Trust or any Trust Subsidiary in excess of \$250,000; and

(k) any Contract relating to settlement of any administrative or judicial proceedings within the past five years in an amount in excess of \$250,000.

Each Trust Material Contract is valid and binding on Trust or Trust party thereto and, to the knowledge of Trust, the counterparties thereto, and is in full force and effect. Except for such breaches and defaults as, individually or in the aggregate would not reasonably be expected to have a Trust Material Adverse Effect, neither Trust nor any Trust Subsidiary, and to the knowledge of Trust, no other party, is in breach of, or default under, any Trust Material Contract. Trust has delivered or made available to Trust true and complete copies of all Trust Material Contracts, including any amendments thereto.

6.19 *Opinion of Financial Advisor.* Trust has received the opinion of Sandler O'Neill, satisfactory to Trust, a copy of which has been provided to CIM, to the effect that the consideration to be received is fair, from a financial point of view, to the shareholders of Trust.

6.20 *Takeover Statutes.* Trust has taken all action necessary, if any, to exempt transactions between Trust and CIM and its Affiliates from the operation of any "fair price," "moratorium," "control share acquisition" or any other anti-takeover statute or similar statute enacted under the state or federal laws of the United States or similar statute or regulation.

6.21 *Registration Statement and Proxy Statement.* The information supplied or to be supplied by Trust or any of the Trust Subsidiaries for inclusion in (a) the Registration Statement will not at the time of filing or at the time the Registration Statement becomes effective under the Securities Act contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading or (b) the Proxy Statement, including any amendments and supplements thereto, will not, either at the date the Proxy Statement is mailed to shareholders of Trust or at the time of the Trust Shareholder Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Registration Statement and the Proxy Statement will each to comply as to form in all material respects with all applicable laws, including the provisions of the Securities Act and the Exchange Act and the rules and regulations promulgated thereunder, except that no representation is made by Trust with respect to information supplied by Capital for inclusion therein.

6.22 *Insurance.* Schedule 6.22 sets forth a true and complete list of all material casualty, general liability, product liability, and all other types of insurance policies maintained with respect to Trust and its Subsidiaries (the "Trust Insurance Policies"), together with the carriers and liability limits for each such Trust Insurance Policy. All such Trust Insurance Policies are in full force and effect and no application therefor included a material misstatement or omission. All premiums with respect thereto have been paid to the extent due. Neither Trust nor any of its Subsidiaries has received notice of, nor to the knowledge of Trust is there threatened, any cancellation, termination or reduction of coverage with respect to any Trust Insurance Policy. No claim currently is pending under any Trust Insurance Policy involving an amount in excess of \$250,000. Schedule 6.22 identifies which Trust Insurance Policies are "occurrence" or "claims made" and which Person is the policy holder. The consummation of the Transactions will not cause a cancellation or reduction in the coverage of any Trust Insurance Policy.

6.23 *Vote Required.* The only vote of the holders of any class or series of Trust's capital shares necessary (under applicable law or otherwise) to approve this Agreement and the Transactions, including the Merger and the Trust Common and Preferred Shares Issuance, is the affirmative vote of the holders of at least a majority of the votes cast in favor of the Trust common and Preferred Shares Issuance, provided that the total votes cast represent at least a majority of the outstanding Trust Common Shares (the "Trust Shareholder Approvals").

**ARTICLE VII  
COVENANTS**

7.1 *Conduct of Business by CIM*. During the period from the date of this Agreement to the Effective Time, CIM shall use commercially reasonable efforts to cause the CIM Partnership and the other CIM Subsidiaries each to, carry on its businesses in the usual, regular and ordinary course in substantially the same manner as heretofore conducted and, to the extent consistent therewith, use commercially reasonable efforts to preserve intact its current business organization, goodwill and ongoing businesses. Without limiting the generality of the foregoing, the following additional restrictions shall apply: During the period from the date of this Agreement to the Effective Time, except as set forth in Schedule 7.1 hereto, CIM shall use commercially reasonable efforts to cause the CIM Partnership and the other CIM Subsidiaries not to (and not to authorize or commit or agree to):

(a) (i) except for regular quarterly dividend payments consistent with past practice, including a dividend payment which is consistent with past practice but paid just prior to the Effective Time, declare, set aside or pay any dividends on, or make any other distributions in respect of any equity interests of the CIM Partnership, if any, (ii) split, combine or reclassify any equity interests or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for any such equity interests or (iii) purchase, redeem or otherwise acquire any of its equity interests or any options, warrants or rights to acquire, or security convertible into, any such equity interests;

(b) issue, deliver or sell, or grant any option or other right in respect of, any equity interests of the CIM Partnership or any of its Subsidiaries or any securities convertible into, or any rights, warrants or options to acquire, any such equity interests except to the CIM Partnership or a Subsidiary of the CIM Partnership;

(c) except as otherwise contemplated by this Agreement, amend the articles or certificate of incorporation, bylaws, partnership agreement or other comparable charter or organizational documents of the CIM Partnership or any Subsidiary of the CIM Partnership;

(d) merge or consolidate with any Person;

(e) sell or otherwise dispose of any asset or property except in the ordinary course of business consistent with past practice;

(f) amend any material contract, instrument or other agreement except in the ordinary course of business consistent with past practice;

(g) enter into, amend or terminate any Contract with a CIM Related Party;

(h) acquire any assets other than in the ordinary course of business;

(i) incur any liabilities for borrowed indebtedness except (A) in the ordinary course of business consistent with past practice, or (B) to raise funds for the payment of the Closing Dividend;

(j) except as provided in this Agreement, adopt any new employee benefit plan, incentive plan, severance plan, stock option or similar plan, grant new stock appreciation rights or amend any existing plan or rights, except such changes as are required by law or which are not more favorable to participants than provisions presently in effect; and

(k) settle any shareholder derivative or class action claims arising out of or in connection with any of the Transactions.

7.2 *Conduct of Business by Trust*. During the period from the date of this Agreement to the Effective Time, Trust shall, and shall cause the Trust Subsidiaries each to carry on its businesses in the usual, regular and ordinary course in substantially the same manner as heretofore conducted and, to the extent consistent therewith, use commercially reasonable efforts to preserve intact its current business organization, goodwill and ongoing businesses. Without limiting the generality of the foregoing, the following additional restrictions shall apply:

During the period from the date of this Agreement to the Effective Time, except as set forth in Schedule 7.2 hereto, Trust shall not and shall cause the Trust Subsidiaries not to (and not to authorize or commit or agree to):

(a) (i) except for the payment of pro rata regular quarterly dividends not in excess of \$0.125 per Trust Common Share, declare, set aside or pay any dividends on, or make any other distributions in respect of any of Trust's capital shares, other than the dividend required to be paid pursuant to Section 4.2, (ii) split, combine or reclassify any equity interests or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for any such equity interests or (iii) purchase, redeem or otherwise acquire any of its equity interests or any options, warrants or rights to acquire, or security convertible into, any such equity interests;

(b) except as required pursuant to the exercise of options or the issuance of shares pursuant to share rights or warrants outstanding on the date of this Agreement, issue, deliver or sell, or grant any option or other right in respect of, any equity interests of Trust or any Trust Subsidiary or any securities convertible into, or any rights, warrants or options to acquire, any such equity interests except to Trust or an Trust Subsidiary;

(c) except as otherwise contemplated by this Agreement, amend the declaration of trust, articles or certificate of incorporation, bylaws, partnership agreement or other comparable charter or organizational documents of Trust or any Trust Subsidiary;

(d) merge or consolidate with any Person;

(e) make or change any tax election or take any other action (or fail to take any action) that would result in Trust no longer qualifying as a REIT or no longer being entitled to the benefit of the provisions of Part II of Subchapter M of the Code;

(f) sell or otherwise dispose of any asset or property except in the ordinary course of business consistent with past practice;

(g) amend any material contract, instrument or other agreement except in the ordinary course of business consistent with past practice;

(h) enter into, amend or terminate any Contract with a Trust Related Party;

(i) acquire any assets other than in the ordinary course of business;

(j) incur any liabilities for borrowed indebtedness except in the ordinary course of business consistent with past practice.

(k) except as provided in this Agreement, adopt any new employee benefit plan, incentive plan, severance plan, stock option or similar plan, grant new stock appreciation rights or amend any existing plan or rights, except such changes as are required by law or which are not more favorable to participants than provisions presently in effect; and

(l) settle any shareholder derivative or class action claims arising out of or in connection with any of the Transactions.

**7.3 Other Actions.** Each of CIM on the one hand and Trust on the other hand shall not and shall use commercially reasonable efforts to cause its respective Subsidiaries not to take any action that would result in (a) any of the representations and warranties of such Party (without giving effect to any "knowledge" qualification) set forth in this Agreement that are qualified as to materiality becoming untrue, (b) any of such representations and warranties (without giving effect to any "knowledge" qualification) that are not so qualified becoming untrue in any material respect or (c) any of the conditions to the Merger set forth in Article IX not being satisfied.



**ARTICLE VIII  
ADDITIONAL COVENANTS**

*8.1 Preparation of the Registration Statement and the Proxy Statement; Trust Shareholders Meeting.*

(a) As soon as practicable following the date of this Agreement, CIM and Trust shall prepare and Trust shall file with the SEC a preliminary Proxy Statement in form and substance satisfactory to each of Trust and CIM, and Trust shall also prepare and file with the SEC the Registration Statement, in which the Proxy Statement will be included as a prospectus. Each of CIM and Trust agrees to provide to the other for inclusion in the Proxy Statement and Registration Statement all information necessary for the Proxy Statement and Registration Statement to comply in all material respects with all requirements of law and, in the reasonable judgment of the Board of Trust Managers of Trust, to adequately inform Trust's shareholders. Each of CIM and Trust shall use commercially reasonable efforts to (i) respond to any comments of the SEC and (ii) have the Registration Statement declared effective under the Securities Act and the rules and regulations promulgated thereunder as promptly as practicable after such filing and to keep the Registration Statement effective as long as is reasonably necessary to consummate the Merger. Trust will use commercially reasonable efforts to cause the Proxy Statement to be mailed to Trust's shareholders, as promptly as practicable after the Registration Statement is declared effective under the Securities Act. Each Party will notify the other promptly of the receipt of any comments from the SEC and of any request by the SEC for amendments or supplements to the Registration Statement or the Proxy Statement or for additional information and will supply the other with copies of all correspondence between such Party or any of its representatives and the SEC, with respect to the Registration Statement or the Proxy Statement. The Registration Statement and the Proxy Statement shall comply in all material respects with all applicable requirements of law. Whenever any event occurs which is required to be set forth in an amendment or supplement to the Registration Statement or the Proxy Statement, Trust or CIM, as the case may be, shall promptly inform the other of such occurrences and cooperate in filing with the SEC and/or mailing to the shareholders of Trust such amendment or supplement. Subject to Section 8.10, the Proxy Statement shall include the recommendation of the Board of Trust Managers of Trust in favor of the Trust Common and Preferred Shares Issuance. Trust also shall take any action required to be taken under any applicable state securities or "blue sky" laws in connection with the Trust Common and Preferred Shares Issuance, and CIM shall furnish all information concerning CIM as may be reasonably requested in connection with any such action. Trust will use commercially reasonable efforts to obtain, prior to the effective date of the Registration Statement, all necessary state securities or "blue sky" permits or approvals required to carry out the Transactions and, except as otherwise provided herein, will pay all expenses incident thereto.

(b) Trust will duly call, give notice of, convene and hold a meeting of Trust shareholders for the purpose of obtaining the Trust Shareholder Approvals (the "Trust Shareholders Meeting") as promptly as reasonably practicable after the date of mailing of the Proxy Statement. Subject to Section 8.10, Trust will, through its Board of Trust Managers, recommend to its shareholders approval of the Transactions, including, but not limited to the requisite vote of such shareholders approving the Trust Common and Preferred Shares Issuance. Trust agrees that unless this Agreement is terminated in accordance with its terms, Trust has an unqualified obligation to submit the Transactions, including this Agreement, to its shareholders at the Trust Shareholders Meeting.

*8.2 Access to Information; Confidentiality.* Between the date of this Agreement and the Effective Time, and subject to the requirements of confidentiality agreements with third parties, each of CIM and Trust shall, and shall cause each of its respective Subsidiaries (including all the CIM Subsidiaries and all the Trust Subsidiaries) to, afford to the other Party and to the officers, employees, accountants, counsel, financial advisors and other representatives of such other Party, reasonable access during normal business hours during the period prior to the Effective Time to all their respective properties, books, contracts, commitments, personnel and records and, during such period, each of CIM and Trust shall, and shall cause each of its respective Subsidiaries (including all the CIM Subsidiaries and all the Trust Subsidiaries) to, furnish promptly to the other Party (a) a copy of each report, schedule, registration statement and other document filed by it during such period pursuant to the requirements of federal or state securities laws (to the extent not available on the SEC's EDGAR website) and

(b) all other information concerning its business, properties and personnel as such other Party may reasonably request. Prior to the Effective Time, CIM, on the one hand, and Trust, on the other hand, shall hold in strict confidence all such information on the terms and subject to the conditions contained in that certain Confidentiality and Non-Disclosure Agreement dated March 8, 2013, as amended (the “Confidentiality Agreement”).

### 8.3 *Commercially Reasonable Efforts; Notification.*

(a) Subject to the terms and conditions herein provided, CIM and Trust shall: (i) promptly make their respective filings and thereafter make any other required submissions under the HSR Act with respect to the Transactions as required pursuant to Section 8.4 below; (ii) use all commercially reasonable efforts to cooperate with one another in (A) determining which filings are required to be made prior to the Effective Time with, and which consents, approvals, permits or authorizations are required to be obtained prior to the Effective Time from, Governmental Entity of the United States, the several states and foreign jurisdictions and any third parties in connection with the execution and delivery of this Agreement, and the consummation of the transactions contemplated by such agreements and (B) timely making all such filings and timely seeking all such consents, approvals, permits and authorizations (iii) use all commercially reasonable efforts to obtain in writing any consents required from third parties pursuant to Section 9.2(d) or 9.3(i) to effectuate the Transactions, such consents to be in reasonably satisfactory form to CIM and Trust; and (iv) use all commercially reasonable efforts to take, or cause to be taken, all other actions and do, or cause to be done, all other things necessary, proper or appropriate to consummate and make effective the Transactions.

(b) CIM shall give prompt notice to Trust, and Trust shall give prompt notice to CIM, if, to CIM’s knowledge or Trust’s knowledge, as applicable, (i) any representation or warranty made by it contained in this Agreement that is qualified as to materiality becoming untrue or inaccurate in any respect, or any such representation or warranty that is not so qualified becoming untrue or inaccurate in any material respect, or any representation or warranty made by it contained in this Agreement is reasonably likely to give rise to a failure of a condition contained in Section 9.2(a) or 9.3(a), as applicable, to effect the Transactions; or (ii) the failure by it to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under this Agreement; provided, however, that no such notification shall affect the representations, warranties, covenants or agreements of the parties or the conditions to the obligations of the parties under this Agreement.

8.4 *Hart-Scott-Rodino.* Each of CIM and Trust (a) shall use their commercially reasonable efforts to file, and to cause their “ultimate parent entities” to file, as soon as practicable a “Notification and Report Form For Certain Mergers and Acquisitions” under the HSR Act with respect to the Transactions, (b) shall take all other actions as may be necessary, desirable or convenient to obtain the required approval under the HSR Act and (c) will comply at the earliest practicable date with any request for additional information received by it from the Federal Trade Commission or the Department of Justice pursuant to the HSR Act.

8.5 *SBA Approval.* Each of CIM and Trust (a) shall use its commercially reasonable efforts, and shall take all actions as may be necessary, desirable or convenient, to obtain the approval of the SBA with respect to the Transactions (the “SBA Approval”) and (b) will comply at the earliest practicable date with any request for additional information received by it from the SBA.

8.6 *Updating Schedules.* In connection with the Closing, CIM and Trust will, promptly upon having knowledge of any fact requiring supplementation or amendment of the Schedules, supplement or amend the various Schedules to this Agreement to reflect any matter which, if existing, occurring or known on the date of this Agreement, would have been required to be set forth or described in such Schedules which was or has been rendered inaccurate thereby. No such supplement or amendment to the Schedules shall have any effect for the purpose of determining satisfaction of the conditions set forth in Article IX hereof, or the compliance by any Party hereto with its covenants and agreements set forth herein.

8.7 *Expenses.* Except as otherwise provided in Section 10.5 of this Agreement, in the event that the Merger is not consummated, all costs and expenses incurred in connection with this Agreement, the Merger and the other Transactions (collectively, the “Expenses”) shall be paid by the Party incurring such expense. In the event that the Merger is consummated, the applicable Surviving Entity will assume the obligation to pay all Expenses incurred by the Parties, the Management Company and their respective Affiliates, whether incurred prior to or after the date of this Agreement.

8.8 *Tax Treatment.* Each of Trust and CIM shall use its reasonable best efforts to cause (a) the Merger to qualify as a transfer of property by CIM to Trust solely in exchange for stock of Trust, as described in Section 351(a) of the Code, and to obtain the opinions of counsel referred to in Sections 9.1(i) and 9.3(d), and (b) the Closing Dividend to be treated as a distribution from Trust to its pre-Merger shareholders under Section 301 of the Code.

8.9 *Board of Trust Managers Resignations and Appointments.* Trust shall use its reasonable best efforts to obtain resignations, effective as of the Effective Time, from each manager and officer of Trust listed on Schedule 8.9 and to appoint as managers and officers of Trust the Persons listed on Schedule 8.9.

8.10 *Acquisition Proposals; Go Shop Period; Intervening Event.*

(a) Notwithstanding anything to the contrary contained in this Agreement, during the period beginning on the date of this Agreement and continuing until 11:59 p.m. (Eastern time) on August 6, 2013 (the “Go Shop Period”), Trust and the Trust Subsidiaries and their respective directors, managers, officers, employees, investment bankers, attorneys, accountants and other advisors or representatives (collectively, “Representatives”) shall have the right to: (i) initiate, solicit and encourage any inquiry or the making of any proposals or offers that constitute Acquisition Proposals, including by way of providing access to non-public information to any Person pursuant to confidentiality agreements on customary terms not materially more favorable in the aggregate to such Person than those contained in the Confidentiality Agreement; provided that Trust shall promptly (and in any event within forty-eight (48) hours thereafter) make available to CIM any material non-public information concerning Trust or the Trust Subsidiaries if such information was not previously made available to CIM, and (ii) engage or enter into or otherwise participate in any discussions or negotiations with any Persons or groups of Persons with respect to any Acquisition Proposals or otherwise cooperate with or assist or participate in, or facilitate any such inquiries, proposals, discussions or negotiations or any effort or attempt to make any Acquisition Proposals.

(b) Except as expressly permitted by this Section 8.10 (including Section 8.10(c)), Trust and the Trust Subsidiaries and their respective officers, managers and directors shall, and Trust shall cause its and the Trust Subsidiaries’ other Representatives to, (i) at 12:01 a.m. on the day after the Go Shop Period (“No Shop Period Start Date”) immediately cease any discussions or negotiations with any Persons that may be ongoing with respect to an Acquisition Proposal and (ii) from the No Shop Period Start Date until the earlier of the Effective Time or the termination of this Agreement in accordance with Article X, not (A) initiate, solicit or encourage any inquiries or the making of any proposal or offer that constitutes an Acquisition Proposal, (B) engage in or otherwise participate in any discussions or negotiations regarding, or provide any non-public information or data concerning Trust or the Trust Subsidiaries to any Person relating to, any Acquisition Proposal, (C) enter into any agreement or agreement in principle with respect to any Acquisition Proposal, or (D) otherwise knowingly facilitate any effort or attempt to make an Acquisition Proposal.

(c) Notwithstanding anything in this Agreement to the contrary, at any time prior to the time, but not after, the Trust Shareholder Approvals are obtained, if Trust receives a written Acquisition Proposal from any Person that did not result from a breach of Section 8.10(b), subject to compliance with this Section 8.10(c), (i) Trust and its Representatives may provide non-public information and data concerning Trust and the Trust Subsidiaries in response to a request therefor by such Person if Trust receives from such Person an executed confidentiality agreement on customary terms not materially more favorable in the aggregate to such Person than those contained in the Confidentiality Agreement; provided that Trust shall promptly (and in any event within

forty-eight (48) hours thereafter) make available to CIM any material non-public information concerning Trust or the Trust Subsidiaries if such information was not previously made available to CIM and (ii) Trust and its Representatives may engage or participate in any discussions or negotiations with such Person, in each of (i) and (ii), if and only to the extent that, (x) prior to taking any action described in clause (i) or (ii) above, the Board of Trust Managers of Trust or any committee thereof determines in good faith (after consultation with its outside legal counsel) that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law, and (y) in each such case referred to in clause (i) or (ii) above, the Board of Trust Managers of Trust or any committee thereof has determined in good faith (after consultation with outside legal counsel and a financial advisor) that such Acquisition Proposal either constitutes a Superior Proposal or could reasonably be expected to result in a Superior Proposal.

(d) *Definitions.* For purposes of this Agreement:

(i) “Acquisition Proposal” means any proposal or offer with respect to (x) a merger, consolidation, business combination or similar transaction with any Person or group of Persons that involves Trust or any of the Trust Subsidiaries or (y) any acquisition (whether by tender offer, share exchange or other manner) by any Person or group of Persons which, in each case of (x) and (y), if consummated would result in any Person or group of Persons becoming the beneficial owner of, directly or indirectly, in one or a series of related transactions, equity securities of the Trust or any of the Trust Subsidiaries representing more than 20% of all outstanding equity securities of Trust (by vote or value), or more than 20% of the consolidated total assets (including, equity securities of the Trust Subsidiaries) of the Trust and the Trust Subsidiaries, taken as a whole, in each case other than the Transactions.

(ii) “Business Day” means any day ending at 11:59 p.m. (New York local time) other than a Saturday or Sunday or a day on which commercial banks in the City of New York are required or authorized by law or executive order to close.

(iii) “Intervening Event” means a material event or circumstance relating to the business, results of operations, assets or financial condition of Trust and Trust’s Subsidiaries, taken as a whole, that occurs or arises after the execution and delivery of this Agreement (other than a Superior Proposal) and was not known to the Board of Trust Managers of Trust on the date of this Agreement, which event or circumstance becomes known to the Board of Trust Managers of Trust prior to the time at which Trust receives the Trust Shareholder Approvals.

(iv) “Superior Proposal” means a bona fide written Acquisition Proposal (provided, that for purpose of this definition, the percentages in the definition of Acquisition Proposal shall be seventy five percent (75%) rather than twenty percent (20%)) made by a third party that did not result from a breach of this Section 8.10 for a transaction that is on terms that the Board of Trust Managers of Trust determines, in good faith after consultation with its outside legal counsel and financial advisor, to be more favorable from a financial point of view to the holders of Trust Common Shares than the Transactions (including the Closing Dividend), taking into account all the terms and conditions of such Acquisition Proposal and this Agreement (including any offer by CIM to amend the terms of this Agreement) that are deemed relevant by the Board of Trust Managers of Trust, and taking into account all legal, financial, regulatory, timing and other aspects of such Acquisition Proposal including the financing thereof, and the Person making the Acquisition Proposal.

(e) *No Change in Recommendation or Alternative Acquisition Agreement.* Except as set forth in this Section 8.10(e), Section 8.10(f) or Section 10.3(a), the Board of Trust Managers of Trust and each committee thereof shall not:

(i) withhold, withdraw, qualify or modify (or publicly propose or resolve to withhold, withdraw, qualify or modify), in a manner adverse to CIM, the Trust Recommendation with respect to the Transactions or approve or recommend, or propose publicly to approve or recommend, or resolve to approve or recommend, any Acquisition Proposal; or

(ii) except as expressly permitted by Section 10.3(a), cause or permit Trust to enter into any letter of intent, Alternative Acquisition Agreement or other similar agreement (other than a confidentiality agreement referred to in Section 8.10(a) or Section 8.10(c)), relating to any Acquisition Proposal.

Notwithstanding anything to the contrary set forth in this Agreement, prior to the time, but not after, the Trust Shareholder Approvals are obtained, the Board of Trust Managers of Trust and any committee thereof may withhold, withdraw, qualify or modify the Trust Recommendation if the Board of Trust Managers of Trust or any committee thereof determines in good faith, after consultation with its outside counsel, that failure to do so would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law (a “Change of Recommendation”) and may also terminate this Agreement pursuant to Section 10.3(a) (a “Fiduciary Termination”); provided, however, that, Trust shall not effect a Change of Recommendation in connection with a Superior Proposal or effect a Fiduciary Termination pursuant to Section 10.3(a) with respect to a Superior Proposal without satisfying the following conditions: (x) Trust notifies CIM in writing, at least five (5) Business Days in advance, that it intends to effect a Change of Recommendation in connection with a Superior Proposal or effect a Fiduciary Termination pursuant to Section 10.3(a) with respect to a Superior Proposal, which notice shall specify the identity of the party who made such Superior Proposal and all of the material terms and conditions of such Superior Proposal and attach the most current version of such agreement; (y) after providing such notice and prior to making such Change of Recommendation in connection with a Superior Proposal or effecting a Fiduciary Termination pursuant to Section 10.3(a) with respect to a Superior Proposal, Trust shall negotiate in good faith with CIM during such five (5) Business Day period (to the extent that CIM desires to negotiate) to make such revisions to the terms of this Agreement as would permit the Board of Trust Managers of Trust not to effect a Change of Recommendation in connection with a Superior Proposal or not to effect a Fiduciary Termination pursuant to Section 10.3(a) in response to a Superior Proposal; and (z) the Board of Trust Managers of Trust shall have considered in good faith any changes to this Agreement offered in writing by CIM in a manner that would form a binding contract, if accepted by Trust, and shall have determined in good faith that the Superior Proposal would continue to constitute a Superior Proposal if such changes offered in writing by CIM were to be given effect; provided that, in the event that the Acquisition Proposal to which this provision applies is thereafter modified in any respect by the party making such Acquisition Proposal, Trust shall provide written notice of such modified Acquisition Proposal to CIM and shall again comply with this Section 8.10(e) and provide CIM with an additional three (3) Business Days’ notice prior to effecting any Change in Recommendation or effecting a Fiduciary Termination pursuant to Section 10.3(a) (and shall do so for each such subsequent modification).

(f) Nothing contained in this Section 8.10 shall be deemed to prohibit Trust or the Board of Trust Managers of Trust or any committee thereof from (i) taking and disclosing to its stockholders a position contemplated by Rule 14d-9, Rule 14e-2(a) or Item 1012(a) of Regulation M-A promulgated under the Exchange Act (or any similar communication to stockholders), or (ii) making any “stop look and listen” communication to the shareholders of Trust pursuant to Rule 14d-9(f) promulgated under the Exchange Act (or any similar communications to the shareholders of Trust); provided that the foregoing shall in no way eliminate or modify the effect that any such disclosure would otherwise have under this Agreement.

(g) From and after the date thereof, Trust agrees that (i) it will promptly (and, in any event, within forty-eight (48) hours) notify CIM if (x) any Acquisition Proposal is received by it or any Trust Subsidiary or any of its Representatives indicating, in connection with such notice, the identity of the Person making the Acquisition Proposal and the material terms and conditions thereof (including, if applicable, copies of any written documentation constituting the Acquisition Proposal, including proposed agreements) and (y) any non-public information is requested from, or any discussions or negotiations are sought to be initiated with, it or any of its Representatives in connection with a potential Acquisition Proposal, indicating, in connection with such notice, the identity of the Person seeking such information or discussions or negotiations, and in each case, thereafter shall keep CIM reasonably informed of the status of any such discussions or negotiations, and (ii) in the event that any such party materially modifies its Acquisition Proposal in any respect, Trust shall notify CIM within forty-eight (48) hours after receipt of such modified Acquisition Proposal of the fact that such Acquisition Proposal has been modified and the terms of such modification (including, if applicable, copies of any written documentation reflecting such modification). Trust agrees it shall not, and shall cause the Trust Subsidiaries not to, enter into any confidentiality agreement subsequent to the date hereof which prohibits Trust from providing to CIM such material terms and conditions and other information.

(h) Except as set forth in this [Section 8.10\(h\)](#), the Board of Trust Managers of Trust and each committee thereof shall not effect a Change in Recommendation in response to an Intervening Event unless the Board of Trust Managers of Trust has determined in good faith, after consultation with its outside counsel, that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law; provided, however, that Trust shall not effect such a Change of Recommendation with respect to an Intervening Event unless: (x) Trust notifies CIM in writing, at least five (5) Business Days in advance, that it intends to effect such a Change of Recommendation, which notice shall specify in reasonable detail the nature of the Intervening Event; (y) after providing such notice and prior to making such a Change of Recommendation, Trust shall negotiate in good faith with CIM during such five (5) Business Day period (to the extent that CIM desires to negotiate) to make such revisions to the terms of this Agreement as would permit the Board of Trust Managers of Trust not to effect a Change of Recommendation in response to such Intervening Event; and (z) the Board of Trust Managers of Trust shall have considered in good faith any changes to this Agreement offered in writing by CIM, and shall have determined in good faith, after consultation with outside counsel, that it would continue to be inconsistent with the Board of Trust Managers' fiduciary duties under applicable Law not to effect the Change of Recommendation if such changes offered in writing by CIM were given effect.

8.11 *Public Announcements*. None of the Parties shall issue any press release or make any public statement with respect to this Agreement or the Transactions without the prior written consent of the other Parties (which consent shall not be unreasonably withheld), except as permitted by [Section 8.10](#) of this Agreement or as may be required by applicable Law or the applicable rules of the NYSE or other applicable national securities exchange, court process or by obligations pursuant to any listing agreement with any national securities exchange. The parties agree that the initial press release to be issued with respect to the Transactions will be issued immediately following the execution of this Agreement and will be in the form agreed to by the parties hereto prior to the execution of this Agreement.

8.12 *Listing*. Trust will promptly prepare and submit to a national securities exchange mutually acceptable to Trust and CIM a listing application covering the Trust Common Shares and Trust Preferred Shares (including the Trust Common Shares and Trust Preferred Shares issuable in the Merger and all Trust Common Shares issuable upon conversion of the Trust Preferred Shares). Prior to the Effective Time, Trust shall use commercially reasonable efforts to have such national securities exchange approve for listing, upon official notice of issuance, the Trust Common Shares and Trust Preferred Shares (including the Trust Common Shares and Trust Preferred Shares to be issued in the Merger and all Trust Common Shares issuable upon conversion of the Trust Preferred Shares).

8.13 *Rule 16b-3*. Prior to the Effective Time, Trust shall take such steps as may be required to cause the Trust Common and Preferred Shares Issuance to be exempt from Section 16(b) of the Exchange Act by reason of Rule 16b-3 under the Exchange Act.

8.14 *Indemnification of Officers and Directors*.

(a) In the event of any threatened or actual claim, action, suit, demand, proceeding or investigation, whether civil, criminal or administrative, including any such claim, action, suit, demand, proceeding or investigation in which any Person who is now, or has been at any time prior to the date hereof, or who becomes prior to the Effective Time, a manager, director or officer of Trust or any of the Trust Subsidiaries (each, together with such Person's heirs, executors and administrators, an "[Indemnified Party](#)" and collectively, the "[Indemnified Parties](#)") is, or is threatened to be, made a party based in whole or in part on, or arising in whole or in part out of, or pertaining to (i) the fact that he or she is or was a manager, director or officer of Trust or any of Trust Subsidiaries, or is or was serving at the request of Trust or any of Trust Subsidiaries as a manager, director, officer, employee, fiduciary or agent of another corporation, partnership, joint venture, trust or other enterprise, or (ii) the discussion, negotiation, execution or performance of this Agreement or any arrangement, agreement or document contemplated hereby or delivered in connection herewith, or otherwise directly or indirectly relating to this Agreement or any such arrangement, agreement or document, or any of the Transactions contemplated

hereby or thereby or otherwise directly or indirectly relating to this Agreement or any such other arrangement, agreement or document, whether in any case asserted or arising at or before or after the Effective Time, Trust agrees to cooperate and use its reasonable best efforts to defend against and respond thereto. It is understood and agreed that Trust shall indemnify and hold harmless, as and to the fullest extent permitted by applicable Law, each Indemnified Party against any and all losses, claims, damages, liabilities, costs, reasonable and documented expenses (including reasonable attorneys' fees and expenses), judgments, fines and amounts paid in settlement in connection with any such threatened or actual claim, action, suit, demand, proceeding, inquiry or investigation, and, in the event of any such threatened or actual claim, action, suit, proceeding, inquiry or investigation (whether asserted or arising at or before or after the Effective Time), (A) Trust shall promptly pay the reasonable and documented out-of-pocket expenses in advance of the final disposition of any such threatened or actual claim, action, suit, demand, proceeding, inquiry or investigation to each Indemnified Party upon receipt of an undertaking by or on behalf of such Indemnified Party if required by Law to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified therefor, (B) the Indemnified Parties may retain one counsel satisfactory to them (together with one additional counsel for each additional jurisdiction in which representation is reasonably necessary), and Trust shall pay all reasonable and documented fees and expenses of such counsel for the Indemnified Parties within twenty (20) days after statements therefor are received, and (C) Trust will use its reasonable best efforts to assist in the vigorous defense of any such matter; provided, however, that Trust shall not be liable for any settlement effected without its prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed); and provided further that Trust shall have no obligation hereunder to any Indemnified Party when and if a court of competent jurisdiction shall ultimately determine, and such determination shall have become final and non-appealable, that indemnification by such entities of such Indemnified Party in the manner contemplated hereby is prohibited by applicable Law. Any Indemnified Party wishing to claim indemnification under this Section 8.14, upon learning of any such threatened or actual claim, action, suit, demand, proceeding or investigation, shall promptly notify Trust thereof; provided that the failure to so notify shall not affect the obligations of Trust except to the extent, if any, such failure to promptly notify materially prejudices such party.

(b) Trust, CIM and Trust Merger Sub each agree that all rights to indemnification and advancement of expenses existing in favor of, and all limitations on the personal liability of, each Indemnified Party provided for in Section 8.14(a) above or in the respective declarations of trust, charter or bylaws (or other applicable organizational documents) of Trust and the Trust Subsidiaries or otherwise in effect as of the date hereof (including through any agreement or arrangement between Trust or any Trust Subsidiary, on the one hand, and any manager, director, officer, employee or agent of Trust or any Trust Subsidiary, on the other hand) shall survive the Transactions and continue in full force and effect for a period of six (6) years from the Effective Time; provided, however, that all rights to indemnification, advancement of expenses and limitations on personal liability in respect of any claims (each, a "Claim") asserted or made within such period shall continue until the final disposition of such Claim. From and after the Effective Time, Trust and each Trust Subsidiary also agree to jointly and severally indemnify and hold harmless the present and former officers, directors and managers of Trust and the Trust Subsidiaries in respect of acts or omissions occurring at or prior to the Effective Time (and, with respect to acts or omissions occurring after the Effective Time, such acts or omissions that directly or indirectly relate back to acts or omissions occurring at or prior to the Effective Time) to the extent provided in any written indemnification agreements between Trust and/or one or more Trust Subsidiaries and such officers, directors and managers.

(c) For a period of six (6) years after the Effective Time, Trust shall, at no cost to the beneficiaries thereunder, cause to be maintained in effect the current policies of managers', directors' and officers' and fiduciary liability insurance maintained by Trust (provided that Trust may substitute therefor policies with reputable and financially sound carriers of at least the same coverage and amounts containing terms and conditions which are no less advantageous) with respect to claims directly or indirectly arising from or related to facts or events which occurred at or before the Effective Time; provided that in no event shall Trust be required to expend annually in the aggregate an amount in excess of 200% of the annual premiums currently paid by Trust as of the date of this Agreement for such insurance (the "Insurance Amount"); provided, further, that if Trust is unable to maintain such policy (or such substitute policy) as a result of the preceding proviso, Trust shall obtain

as much comparable insurance as is available for the Insurance Amount; provided, further, that, in lieu of the foregoing insurance, at any time after the date hereof, Trust, may purchase a managers', directors' and officers' and fiduciary liability insurance "tail" or "runoff" insurance program for a period of six (6) years after the Effective Time with respect to wrongful acts and/or omissions committed or allegedly committed at or prior to the Effective Time (such coverage shall have an aggregate coverage limit over the term of such policy in an amount not less than the annual aggregate coverage limit under Trust's existing managers, directors and officers liability policy, and in all other respects shall be comparable to such existing coverage); and provided, further, that if the annual premiums for such "tail" policy exceed the Insurance Amount, then Trust may obtain a "tail" policy with the maximum coverage available for the Insurance Amount applied over the term of such policy.

(d) Notwithstanding anything in this Agreement to the contrary, the obligations under this Section 8.14 shall not be terminated or modified in such a manner as to adversely affect any Indemnified Party to whom this Section 8.14 applies without the consent of such affected Indemnified Party. This Section 8.14 is intended for the irrevocable benefit of, and to grant third party beneficiary rights to, the Indemnified Parties and their respective heirs and shall be binding on all successors of the Parties hereto. Each of the Indemnified Parties and their respective heirs shall be entitled to enforce the provisions of this Section 8.14.

(e) In the event that, following the Effective Time, Trust or any Trust Subsidiary or any of their respective successors or assigns (i) consolidates with or merges into or converts into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger, (ii) transfers or conveys all or substantially all of its properties and assets to any Person or (iii) commences a dissolution, liquidation, assignment for the benefit of creditors or similar action, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of Trust or any Trust Subsidiary, as the case may be, assume the obligations set forth in this Section 8.14.

#### 8.15 *Employee Matters.*

(a) On and after the Effective Time, Trust shall honor in accordance with their terms all employment agreements listed on Schedule 6.18(e) and all Trust Benefit Plans listed on Schedule 6.12(a); provided that nothing herein shall be construed as prohibiting the amendment or termination of any of the foregoing in accordance with their terms.

(b) Subject to Section 8.15(h), for no less than the twelve (12)-month period immediately following the Closing Date, each employee of Trust and its Subsidiaries as of the Effective Time shall continue to be employed by Trust (collectively, the "Continuing Employees") and shall continue to provide to such Continuing Employees compensation and employee benefits that are substantially comparable in value in the aggregate as those provided as of the date of this Agreement by Trust and its Subsidiaries to such Continuing Employee (excluding, for purposes of currently provided benefits, any equity or equity-based compensation, defined benefit pension benefits, retiree medical benefits or transaction or retention bonuses). Trust may only increase an employee's compensation between the date of this Agreement and the Closing Date in strict accordance with documented past practices and in the ordinary course of business. Notwithstanding the preceding, if the Closing Date occurs prior to December 31, 2013, (i) Trust shall continue to sponsor through at least December 31, 2013 the Trust Benefit Plans, (ii) permit the Continuing Employees and, as applicable, their eligible dependents, to participate in the Trust Benefit Plans (including without limitation any plan intended to qualify within the meaning of Section 401(a) of the Code and any vacation, sick, per personal time off plans or programs) on terms no less favorable than those provided to the Continuing Employees prior to the date of this Agreement.

(c) CIM shall, and it shall cause its Affiliates (including, for periods on or after January 1, 2014, Management Company) to, cause each of its employee benefit plans providing benefits to any Continuing Employees to give each Continuing Employee full credit (for all purposes, including eligibility to participate, vesting, vacation entitlement and severance benefits) for all service with Trust or its Affiliates prior to the Closing Date to the same extent as such Continuing Employee was entitled, before the Closing Date, to credit for such service under any similar Trust Benefit Plan in which such Continuing Employee participated or was eligible to participate immediately prior to the Closing; provided, however, that (i) such service need not be



credited to the extent it would result in a duplication of benefits, and (ii) such service credit shall not be given with respect to benefit accruals under any defined benefit pension plan or plans providing for post-termination medical benefits.

(d) Following the Closing Date, with respect to the Continuing Employees and their eligible dependents, CIM shall, and it shall cause its Affiliates to, cause each of its employee benefit plans providing benefits to any Continuing Employee to: (i) waive any pre-existing conditions to the extent such pre-existing conditions were waived under the existing plans of Trust as of the date of this Agreement, (ii) provide credit for prior service with Trust and its Affiliates as of the Closing Date for purposes of satisfying any applicable waiting periods to the extent such credit would be recognized for its purpose under the existing plans of Trust as of the date of this Agreement, and (iii) give credit in the year in which the Closing Date occurs for any copayments, deductibles and out-of-pocket limits paid by the continuing Employee and eligible dependents in such year prior to the Closing Date to the extent such amounts would be recognized for such purposes under the existing plans of Trust as of the date of this Agreement.

(e) If the Closing Date occurs prior to December 31, 2013, Trust shall pay to each Continuing Employee an annual bonus payment due to such Continuing Employee under Trust's 2013 annual bonus plan, to the extent such payments were not previously paid to the Continuing Employees pursuant to such bonus plan's terms. Not later than January 15, 2014, Trust shall fund an employer profit sharing contribution to the PMC Commercial Trust 401(k) Plan for the plan year ending December 31, 2013 for at least the same funding level, determined as a percentage of annual compensation, as was funded for the plan year ending December 31, 2012.

(f) Nothing in this Section 8.15, whether express or implied, shall confer upon any Person whether or not a party to this Agreement (including any Continuing Employee) any right to employment or recall, any right to continued employment, any right to compensation or benefits, or any other right of any kind or nature whatsoever.

(g) Nothing contained in this Section 8.15, express or implied is intended to confer upon any Person any rights as a third-party beneficiary of this Agreement.

(h) The provisions of this Section 8.15 shall not be applicable to any employee terminated for cause. For purposes of this Section 8.15, "cause" shall mean an employee's: (i) conviction of, or plea of nolo contendere to, any felony or involving acts of theft, fraud, embezzlement, moral turpitude, or similar conduct, (ii) intoxication by alcohol or drugs during the performance of such Continuing Employee's duties in a manner that adversely affects the Continuing Employee's performance of such duties; (iii) malfeasance, in the conduct of such Continuing Employee's duties, including, but not limited to, (A) misuse or diversion of funds of Trust or its Subsidiaries, (B) stealing, (C) misrepresentations or concealments regarding hours worked or on any written reports submitted to Trust or its Subsidiaries, including expense reimbursement requests, or (D) engaging in inappropriate workplace behavior such as gross insubordination, fighting, harassment or discrimination; or (iv) excessive absenteeism or tardiness that is not otherwise protected by law.

#### 8.16 *[Intentionally Deleted]*.

8.17 *Trust Board Nomination Committee Procedures.* Prior to the Effective Time, Trust shall take such actions as may be necessary so that, as of the Effective Time, (a) the number of trust managers that will comprise the Board of Trust Managers of Trust shall be seven trust managers, consisting of three independent managers (the "Independent Managers") and four non-Independent Managers and (b) the Board of Trust Managers of Trust (and committees thereof) set forth on Schedule 2.1 shall have been properly evaluated and approved by Trust's Nominating and Corporate Governance Committee (or CIM shall be advised otherwise and shall be entitled to nominate substitute candidate(s)) so that they may commence to serve effective as of the Effective Time.

#### 8.18 *Subsequent Proxy Statement.*

(a) As soon as practicable following the Effective Time, CIM agrees to cause Trust, and Trust agrees to file with the SEC a preliminary proxy statement pursuant to which Trust shall solicit proxies from Trust's

shareholders to vote in favor of an increase of the authorized number of Trust Common Shares to 1,000,000,000 shares and a change in the name of Trust to "CIM Commercial REIT" through an amendment to the Declaration of Trust or reincorporation of Trust from Texas to Maryland (the "Subsequent Proxy Statement"). Each of CIM and Trust agree to use their respective reasonable best efforts to have the Subsequent Proxy Statement cleared by the SEC as promptly as practical. As soon as practical following its clearance by the SEC, Trust shall distribute the Subsequent Proxy Statement to Trust's shareholders to solicit proxies in favor of the matters contained in the Subsequent Proxy Statement.

(b) CIM agrees to cause Trust, and Trust agrees to duly call, give notice of and convene a meeting of Trust's shareholders for the purpose of obtaining the approval of Trust's shareholders of the matters set forth in the Subsequent Proxy Statement as promptly as reasonably practicable after the Effective Date. CIM agrees to cause Trust, and Trust agrees through its then Board of Trust Managers, to recommend to Trust's shareholders that they approve the matters proposed in the Subsequent Proxy Statement.

(c) Each of CIM and CIM GP agrees to vote all of the Trust Common Shares and Trust Preferred Shares held by it immediately after the Effective Time in favor of the approval of the matters set forth in the Subsequent Proxy Statement.

(d) As soon as practicable after such meeting of Trust's Shareholders, CIM agrees to cause Trust to file all such instruments and to take all actions necessary to effectuate the transactions and other proposals described in the subsequent Proxy Statement that were approved by Trust's Shareholders at such meeting.

8.19 *Closing Dividend*. Trust agrees to pay the Closing Dividend on or prior to the tenth (10<sup>th</sup>) Business Day after the Effective Time. CIM and its Affiliates agree not to take any action to rescind or amend the payment of the Closing Dividend.

## ARTICLE IX CONDITIONS PRECEDENT

9.1 *Conditions to Each Party's Obligation To Effect the Merger*. The respective obligation of each Party to effect the Merger and to consummate the other Transactions contemplated to occur on the Closing Date is subject to the satisfaction or waiver on or prior to the Effective Time of the following conditions:

(a) *Trust Shareholder Approvals*. The Trust Shareholder Approvals shall have been obtained.

(b) *HSR Act*. The waiting period (and any extension thereof) applicable to the Transactions under the HSR Act shall have been terminated or shall have expired.

(c) *Listing of Shares*. A national securities exchange mutually acceptable to Trust and CIM (in accordance with the terms of Section 8.12 hereof) shall have approved for listing the Trust Common Shares and Trust Preferred Shares (including the Trust Common Shares and Trust Preferred Shares to be issued in the Merger, and all Trust Common Shares issuable upon conversion of the Trust Preferred Shares to be issued in the Merger).

(d) *SBA Approval*. The SBA Approval shall have been issued by the SBA and shall not contain any terms and conditions that are (a) unacceptable to CIM or Trust, in its reasonable discretion, or (b) inconsistent with this Agreement.

(e) *Registration Statement*. The Registration Statement shall have become effective under the Securities Act and shall not be the subject of any stop order or proceedings by the SEC seeking a stop order, and no similar proceedings with respect to the Proxy Statement shall have been initiated or threatened in writing by the SEC.

(f) *No Injunctions or Restraints*. No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Merger or any of the other Transactions shall be in effect.

(g) *Blue Sky Laws*. Trust shall have received all state securities or “blue sky” permits and other authorizations necessary to issue the Trust Common Shares and the Trust Preferred Shares pursuant to the Merger.

(h) *Certain Actions and Consents*. All other consents, approvals, orders, authorizations, registrations, and declarations of any Governmental Entity required to consummate the Transactions shall have been obtained and remain in full force and effect, except for such consents, approvals, orders, authorizations, registrations, or declarations which, if not obtained or made, would not prevent or delay in any material respect the consummation of the Transactions or otherwise prevent the Parties from performing their respective obligations under this Agreement in any material respect or have, individually or in the aggregate, a CIM Material Adverse Effect or a Trust Material Adverse Effect.

(i) *Opinions*. CIM and Trust shall have received opinions of counsel to CIM, dated as of the Closing Date, reasonably satisfactory to CIM and Trust (with customary exceptions, assumptions and qualifications, and based upon customary representations), (A) that, after giving effect to the Merger, Trust’s proposed method of operation will enable Trust to continue to meet the requirements for qualification and taxation as a REIT under the Code, and (B) that the Merger should qualify as a transfer of property by CIM to Trust solely in exchange for stock of Trust, as described in Section 351(a) of the Code. For purposes of such opinions, which shall be a form customary for transactions of this nature, counsel to CIM may rely on customary assumptions and representations of CIM, Trust and their officers.

9.2 *Conditions to Obligations of Trust and Trust Merger Sub*. The obligations of Trust and Trust Merger Sub to effect the Merger and to consummate the other Transactions contemplated to occur on the Closing Date are further subject to the following conditions, any one or more of which may be waived by Trust:

(a) *Representations and Warranties*. The representations and warranties of CIM and CIM Merger Sub set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date, as though made on and as of the Closing Date, except to the extent the representation or warranty is expressly limited by its terms to another date, and Trust shall have received a certificate (which certificate may be qualified by knowledge to the same extent as such representations and warranties are so qualified) signed on behalf of CIM by Kelly Eppich and David Thompson to such effect. This condition shall be deemed satisfied unless any or all breaches of CIM’s and CIM Merger Sub’s representations and warranties in this Agreement (without giving effect to any materiality or Material Adverse Effect qualification or limitation) is reasonably expected to have a CIM Material Adverse Effect.

(b) *Performance of Obligations of CIM and CIM Merger Sub*. Each of CIM and CIM Merger Sub shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Effective Time, and Trust shall have received a certificate signed on behalf of CIM by an authorized signatory of CIM to such effect.

(c) *Material Adverse Change*. Since the date of this Agreement, there shall have been no CIM Material Adverse Change and Trust shall have received a certificate of the senior executive officer or senior financial officer of CIM certifying to such effect.

(d) *Consents*. All consents and waivers from third parties necessary in connection with the consummation of the Transactions shall have been obtained, other than such consents and waivers from third parties, which, if not obtained, would not result, individually or in the aggregate, in a CIM Material Adverse Effect.

(e) *Master Services Agreement*. The Management Company shall have executed and delivered the Master Services Agreement to Trust to be effective as of the Effective Time.

(f) *Registration Rights and Lockup Agreement*. CIM and CIM GP shall have executed and delivered the Registration Rights and Lockup Agreement to Trust to be effective as of the Effective Time.

(g) *Opinion Relating to REIT Qualification*. Trust shall have received an opinion of counsel to CIM dated as of the Closing Date, reasonably satisfactory to Trust (with customary exceptions, assumptions and

qualifications), to the effect that each REIT Subsidiary has been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code at all times since the formation of such REIT Subsidiary through the Closing Date. For purposes of such opinion, which shall be in a form customary for transactions of this nature, counsel to CIM may rely on customary assumptions and representations of CIM and its officers.

(h) *Limited Liability Company Agreement.* The Limited Liability Company Agreement of Urban GP shall have been executed on terms reasonably satisfactory to Trust and Trust Merger Sub, to be effective as of the Effective Date.

### 9.3 Conditions to Obligations of CIM and CIM Merger Sub.

The obligation of CIM and CIM Merger Sub to effect the Merger and to consummate the other Transactions contemplated to occur on the Closing Date is further subject to the following conditions, any one or more of which may be waived by CIM:

(a) *Representations and Warranties.* The representations and warranties of Trust and Trust Merger Sub set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date, as though made on and as of the Closing Date, except to the extent the representation or warranty is expressly limited by its terms to another date, and CIM shall have received a certificate (which certificate may be qualified by knowledge to the same extent as such representations and warranties are so qualified) signed on behalf of Trust by the chief executive officer and the chief financial officer of such Party to such effect. This condition shall be deemed satisfied unless any or all breaches of Trust's and Trust Merger Sub's representations and warranties in this Agreement (without giving effect to any materiality qualification or limitation) is reasonably expected to have a Trust Material Adverse Effect.

(b) *Performance of Obligations of Trust and Trust Merger Sub.* Each of Trust and Trust Merger Sub shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Effective Time, and CIM shall have received a certificate of Trust signed on behalf of such Party by the chief executive officer or the chief financial officer of such Party to such effect.

(c) *Material Adverse Change.* Since the date of this Agreement, there shall have been no Trust Material Adverse Change and CIM shall have received a certificate of the chief executive officer or chief financial officer of Trust certifying to such effect.

(d) *Opinion Relating to REIT Qualification.* CIM shall have received an opinion of counsel to Trust dated as of the Closing Date, reasonably satisfactory to CIM (with customary exceptions, assumptions and qualifications), to the effect that, at all times since its taxable year ended December 31, 2007 through the Closing Date, Trust has been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code. For purposes of such opinion, which shall be in a form customary for transactions of this nature, counsel to Trust may rely on customary assumptions and representations of Trust and its officers.

(e) *Board of Trust Managers.* The Board of Trust Managers of Trust (and committees thereof) shall be as set forth on Schedule 2.1 effective as of the Effective Time.

(f) *Master Services Agreement.* Trust shall have executed and delivered to the Management Company the Master Services Agreement to be effective as of the Effective Time.

(g) *Registration Rights and Lockup Agreement.* Trust shall have executed and delivered the Registration Rights and Lockup Agreement to CIM and CIM GP to be effective as of the Effective Time.

(h) *Consents.* All consents set forth on Schedule 9.3(h) shall have been obtained. All consents and waivers from third parties otherwise necessary in connection with the consummation of the Transactions shall have been obtained, other than such consents and waivers from third parties, which, if not obtained, would not have a Trust Material Adverse Effect.

**ARTICLE X  
TERMINATION, AMENDMENT AND WAIVER**

10.1 *Termination by Mutual Consent.* This Agreement may be terminated and the Transactions may be abandoned at any time prior to the Effective Time, whether before or after the Trust Shareholder Approvals are obtained by mutual written consent of Trust and CIM.

10.2 *Termination by Either CIM or Trust.* This Agreement may be terminated and the Transactions may be abandoned at any time prior to the Effective Time by written notice of either CIM or Trust if:

(a) the Merger shall not have been consummated by December 31, 2013, whether such date is before or after the date the Trust Shareholder Approvals are obtained (such date, the "Termination Date");

(b) the Trust Shareholders Meeting shall have been held and completed and the Trust Shareholder Approvals shall not have been obtained at such Trust Shareholders Meeting or at any adjournment or postponement thereof; or

(c) any injunction or other Governmental Entity's order permanently restraining, enjoining or otherwise prohibiting consummation of the Transactions shall become final and non-appealable (whether before or after the Trust Shareholder Approvals have been obtained);

provided, that the right to terminate this Agreement pursuant to this Section 10.2 shall not be available to any Party that has breached in any material respect its obligations under this Agreement in any manner that shall have been the primary cause of, or the primary factor that resulted in, the failure of a condition to the consummation of the Transactions to have been satisfied on or before the Termination Date.

10.3 *Termination by Trust.* This Agreement may be terminated and the Transactions may be abandoned:

(a) by written notice of Trust at any time prior to the receipt of the Trust Shareholder Approvals if (i) the Board of Trust Managers of Trust authorizes Trust, subject to (x) complying in all material respects with the terms of this Agreement (other than Section 8.10) and (y) complying with Section 8.10 of this Agreement, to enter into definitive transaction documentation providing for a Superior Proposal ("Alternative Acquisition Agreement"), (ii) immediately prior to or substantially concurrently with the termination of this Agreement, Trust enters into an Alternative Acquisition Agreement with respect to a Superior Proposal and (iii) Trust immediately prior to or substantially concurrently with such termination pays to CIM in immediately available funds any fees required to be paid pursuant to Section 10.5; or

(b) by written notice of Trust at any time prior to the Effective Time if there has been a breach of any representation, warranty, covenant or agreement made by CIM or CIM Merger Sub in this Agreement such that the conditions set forth in Section 9.2(a) or Section 9.2(b) would not be satisfied and such breach or condition is not curable or, if curable, is not cured prior to the earlier of (i) thirty (30) days after written notice thereof is given by Trust to CIM and (ii) the Termination Date; provided, however, that Trust and Trust Merger Sub are not then in material breach of this Agreement.

10.4 *Termination by CIM.* This Agreement may be terminated and the Transactions may be abandoned:

(a) by written notice of CIM at any time prior to the Trust Shareholder Approvals if (i) the Board of Trust Managers of Trust fails to recommend in the Proxy Statement the Transactions or shall make a Change of Recommendation or shall approve, recommend or endorse (or in the case of a tender offer or exchange offer subject to Regulation 14D under the Exchange Act, fails to recommend, in a Solicitation/Recommendation Statement on Schedule 14D-9, rejection of within ten (10) Business Days after the commencement of such tender offer or exchange offer) an Acquisition Proposal or publicly resolves or proposes to do any of the foregoing; or (ii) there shall have been a material breach by any of Trust's directors, officers or managers of Section 8.1 or Section 8.10, which breach cannot be or is not cured within five (5) Business Days after written notice thereof; or

(b) by written notice of CIM at any time prior to the Effective Time if there has been a breach of any representation, warranty, covenant or agreement made by Trust or Trust Merger Sub in this Agreement such that the

conditions set forth in Section 9.3(a) or Section 9.3(b) would not be satisfied and such breach cannot be or is not cured prior to the earlier of (i) thirty (30) days after written notice thereof is given by CIM to Trust and (ii) the Termination Date; provided, however, that CIM and CIM Merger Sub are not then in material breach of this Agreement.

#### 10.5 *Effect of Termination and Abandonment.*

(a) In the event of termination of this Agreement and the abandonment of the Transactions pursuant to this Article X, this Agreement shall become void and of no effect with no liability to any Person on the part of any Party hereto (or of any of its Representatives or Affiliates); provided, however, and notwithstanding anything in the foregoing to the contrary, that (i) no such termination shall relieve any Party hereto of any liability to pay the Termination Fee pursuant to this Section 10.5, (ii) no such termination shall relieve any of the Parties of liability for any willful and material breach of this Agreement prior to termination; and (iii) the agreements of the parties contained in this Section 10.5, Article XI and the Confidentiality Agreement shall survive the termination of this Agreement (in the case of the Confidentiality Agreement, subject to the terms thereof).

(b) In the event that:

(i) (x) this Agreement is terminated pursuant to Section 10.2(a) (in the case of Section 10.2(a) only, before obtaining the Trust Shareholder Approvals), Section 10.2(b), or Section 10.4(b) (as a result of any willful breach), (y) any Person shall have publicly disclosed or shall have made known to the Board of Trust Managers of Trust a bona fide Acquisition Proposal after the date hereof and prior to such termination (unless irrevocably and, if such Acquisition Proposal is public, publicly withdrawn prior to such termination), and (z) within twelve (12) months after such termination Trust shall have entered into a definitive agreement with respect to an Acquisition Proposal or consummated an Acquisition Proposal (provided that for purposes of this clause (z) the references to “20%” in the definition of “Acquisition Proposal” shall be deemed to be references to “50%”);

(ii) this Agreement is terminated by CIM pursuant to Section 10.4(a); or

(iii) this Agreement is terminated by Trust pursuant to Section 10.3(a); then Trust shall:

(A) in the case of clause (i) above, promptly, but in no event later than three (3) Business Days after the date on which Trust consummates the Acquisition Proposal referred to in subclause (i)(z) above, pay CIM the Termination Fee by wire transfer of immediately available funds; provided, however, the portion of the Termination Fee representing the Expense Reimbursement is payable within the later of the aforesaid three (3) Business Day Period and two Business Days after receipt from CIM of an invoice therefor; and

(B) in the case of clause (ii) and (iii) above, immediately prior to or substantially concurrently with such termination, pay CIM the Termination Fee by wire transfer of immediately available funds (it being understood that in no event shall Trust be required to pay the Termination Fee on more than one occasion); provided, however, the portion of the Termination Fee representing the Expense Reimbursement is payable within two Business Days after receipt from CIM of an invoice therefor.

“Expense Reimbursement” shall mean the amount of all reasonable, documented out-of-pocket expenses (including all reasonable fees and expenses of financing sources, counsel, accountants, investment banks, experts and consultants to CIM and its Affiliates) actually incurred, whether prior to or after the date of the Agreement, in connection with the Transactions, and paid or payable, by CIM or any of their Affiliates (including expenses paid by CIM or its Affiliates on behalf of Trust or its Affiliates prior to the execution of this Agreement (the “Trust Reimbursed Expenses”)); provided that the aggregate Expense Reimbursement (excluding the Trust Reimbursed Expenses) shall not exceed \$700,000.

“Termination Fee” shall mean an amount equal to \$4,000,000 plus the Expense Reimbursement; except that in the event this Agreement is terminated by Trust pursuant to Section 10.3(a) in order to enter into an Alternative Acquisition Agreement prior to the No Shop Period Start Date, the “Termination Fee” shall mean a cash amount equal to \$3,000,000 plus the Expense Reimbursement.

(c) The Parties acknowledge that the agreements contained in this Section 10.5 are an integral part of the Transactions, and that, without these agreements, the Parties would not enter into this Agreement;

accordingly, if Trust fails to promptly pay the amount due pursuant to Section 10.5(b), and, in order to obtain such payment, CIM commences a suit that results in a judgment against Trust for the amount set forth in Section 10.5(b) or any portion thereof, Trust shall pay to the CIM its reasonable out-of-pocket costs and expenses (including attorneys' fees) in connection with such suit, together with interest on such amount or portion thereof at the prime rate of Citibank N.A. in effect on the date such payment was required to be made through the date of payment. Notwithstanding anything to the contrary in this Agreement but subject to Section 11.7(c), in circumstances in which the Termination Fee is payable, CIM's right to receive payment from Trust of the Termination Fee pursuant to Section 10.5(b) shall be the sole and exclusive remedy of CIM against Trust for the loss suffered for a breach or failure to perform hereunder or otherwise.

10.6 *Amendment.* This Agreement may be amended by the parties in writing by action of the Director of CIM or the Board of Trust Managers of Trust at any time before or after the Trust Shareholder Approvals are obtained and prior to the Effective Time; provided, however, that, after the Trust Shareholder Approvals are obtained, no such amendment, modification or supplement shall be made which by Law requires further approval by the Shareholders of Trust without obtaining such approval.

10.7 *Extension; Waiver.* At any time prior to the Effective Time, the Parties may (a) extend the time for the performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of the other Party contained in this Agreement or in any document delivered pursuant to this Agreement or (c) subject to the proviso of Section 10.6, waive compliance with any of the agreements or conditions of the other Party contained in this Agreement. Any agreement on the part of a Party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such Party. The failure of any Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of those rights.

## ARTICLE XI GENERAL PROVISIONS

11.1 *Nonsurvival of Representations and Warranties.* None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This Section 11.1 shall not limit any covenant or agreement of the parties which by its terms contemplates performance after the Effective Time.

11.2 *Notices.* All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given if delivered personally, sent by overnight courier (providing proof of delivery) to the Parties or upon transmission if sent by electronic mail with confirmation of receipt at the following addresses (or at such other address for a Party as shall be specified by like notice):

(a) if to Trust, to

PMC Commercial Trust  
17950 Preston Road, Suite 600  
Dallas, Texas 75252  
Attention: Mr. Jan Salit  
Email: j.salit@pmctrust.com

with a copy to:

Locke Lord LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201  
Attention: Ms. Lane Folsom  
Email: LFolsom@lockelord.com

(b) if to CIM, to

CIM Urban REIT, LLC  
6922 Hollywood Blvd.  
Ninth Floor  
Los Angeles, CA 90028  
Attention: Kelly Eppich and General Counsel  
Email: [keppich@cimgroup.com](mailto:keppich@cimgroup.com) and [generalcounsel@cimgroup.com](mailto:generalcounsel@cimgroup.com)

with a copy (which shall not constitute notice) to:

DLA Piper LLP (US)  
203 North LaSalle Street, Suite 1900  
Chicago, IL 60601-1293  
Attention: Mr. Gregory A. Dahlgren  
Email: [gregory.dahlgren@dlapiper.com](mailto:gregory.dahlgren@dlapiper.com)

11.3 *Interpretation.* When a reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.”

11.4 *Counterparts.* This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties.

11.5 *Exhibits and Schedules.* The exhibits and Schedules hereto are a part of this Agreement as if fully set forth herein. All references herein to Articles, Sections, clauses, exhibits and Schedules shall be deemed references to such parts of this Agreement, unless the context shall otherwise require.

11.6 *Entire Agreement; No Third Party Beneficiaries.* This Agreement, the Confidentiality Agreement, and the other agreements entered into in connection with the Transactions constitute the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter of this Agreement. Nothing in this Agreement, express or implied, is intended, or shall be deemed, to confer on a person other than the Parties hereto or their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except for (i) after the Effective Time, the rights of the Indemnified Parties under the provisions of [Section 8.14](#) (which is intended to be for the benefit of the persons covered thereby and may be enforced by such persons); (ii) after the Effective Time, the rights of the holders of Trust Common Shares to receive the Closing Dividend, as set forth in [Sections 4.2](#) and [8.19](#); and (iii) after the Effective Time, the rights of the holders of Trust Common Shares to require that each of CIM and Trust comply with their respective obligations set forth in [Section 8.18](#).

11.7 *Governing Law and Venue; Waiver of Jury Trial; Specific Performance.*

(a) THIS AGREEMENT AND ALL CLAIMS OR CAUSES OF ACTION (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) THAT MAY BE BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, OR THE NEGOTIATION, EXECUTION OR PERFORMANCE HEREOF, SHALL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE WITHOUT REGARD TO THE CONFLICTS OF LAW PRINCIPLES THEREOF. The Parties hereby irrevocably submit to the personal jurisdiction of the Court of Chancery of the State of Delaware, or to the extent such Court does not have subject matter jurisdiction, the Superior Court of the State of Delaware (the “[Chosen Courts](#)”) solely in



respect of the interpretation and enforcement of the provisions of this Agreement and of the documents referred to in this Agreement, and in respect of the transactions contemplated hereby, or the negotiation, execution or performance hereof, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in the Chosen Courts or that the Chosen Courts are an inconvenient forum or that the venue thereof may not be appropriate, or that this Agreement or any such document may not be enforced in or by such Chosen Courts, and the Parties hereto irrevocably agree that all claims, actions, suits and proceedings or other causes of action (whether at Law, in contract, in tort or otherwise) that may be based upon, arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement, or the negotiation, execution or performance hereof shall be heard and determined exclusively in the Chosen Courts. The Parties hereby consent to and grant any such Chosen Court jurisdiction over the person of such parties and, to the extent permitted by Law, over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action, suit or proceeding in the manner provided in Section 11.7 or in such other manner as may be permitted by law shall be valid, effective and sufficient service thereof.

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.7.

(c) The Parties agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that the parties hereto do not perform the provisions of this Agreement (including failing to take such actions as are required of it hereunder in order to consummate this Agreement) in accordance with its specified terms or otherwise breach such provisions. The Parties acknowledge and agree that the parties shall be entitled to an injunction, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, including with respect to the making of required regulatory filings in connection with the transactions contemplated hereby, this being in addition to any other remedy to which they are entitled at Law or in equity.

11.8 *Assignment*. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned or delegated, in whole or in part, by operation of law or otherwise by any of the parties without the prior written consent of the other parties. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

11.9 *Definitions*. Each of the terms set forth in Schedule 11.9 is defined in the Section of this Agreement opposite such term.

11.10 *Severability*. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any current or future law, and if the rights or obligations of the parties under this Agreement would not be materially and adversely affected thereby, such provision shall be fully separable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part thereof, the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance therefrom. In lieu of such illegal, invalid or

unenforceable provision, there shall be added automatically as a part of this Agreement, a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible, and the parties hereto request the court or any arbitrator to whom disputes relating to this Agreement are submitted to reform the otherwise illegal, invalid or unenforceable provision in accordance with this Section 11.10.

11.11 *Schedules*. CIM and CIM Merger Sub shall not be entitled to claim that any fact or combination of facts constitutes an inaccuracy in, or a breach of, any of the representations or warranties contained in Article VI of this Agreement if and to the extent that such fact or combination of facts has been disclosed in the Trust SEC Documents filed with or furnished to the SEC after December 31, 2011 and prior to the date of this Agreement in sufficient detail to reasonably put CIM and CIM Merger Sub on notice of the relevance of the facts or circumstances so disclosed, but excluding any risk factor disclosure set forth under the caption "Risk Factors" (or a similarly phrased caption) in any such Trust SEC Documents that would similarly apply to most other companies conducting business activities that are the same or similar to those conducted by Trust. Any fact or combination of facts that has been disclosed in any Schedule of the Schedules shall be deemed to be disclosed with respect to any other Section of this Agreement to the extent that it is reasonably apparent that such disclosure is applicable to such other Section and Schedule. The inclusion of any information in the Schedules shall not be deemed to be an admission or acknowledgement, in and of itself, that such information is required by the terms hereof to be disclosed, is material, has resulted or is reasonably expected to result in a CIM Material Adverse Effect or a Trust Material Adverse Effect, as the case may be, or is outside the ordinary course of business or that it would otherwise be appropriate to include any such information.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

PMC COMMERCIAL TRUST

By: /s/ Jan F. Salit  
Name: Jan F. Salit  
Title: President and Chief Executive  
Officer

SOUTHFORK MERGER SUB, LLC

By: /s/ Jan F. Salit  
Name: Jan F. Salit  
Title: President and Chief Executive  
Officer

CIM URBAN REIT, LLC

By: /s/ David Thompson  
Name: David Thompson  
Title: Vice President and Chief Financial  
Officer

CIM MERGER SUB, LLC

By: /s/ David Thompson  
Name: David Thompson  
Title: Vice President and Chief Financial  
Officer

*[Signature Page to the Agreement and Plan of Merger]*

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**Annex A — Statement of Designations of Trust Preferred Shares**  
**(see Exhibit 10.1)**

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**Annex B — Master Services Agreement**  
(see Exhibit 10.2)

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**Annex C — Registration Rights and Lockup Agreement**  
**(see Exhibit 10.3)**

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**Annex D — Chart of Structure of Trust and its Subsidiaries after the Merger**  
**(see Exhibit 10.4)**

**STATEMENT OF DESIGNATION**  
**OF THE CLASS A PREFERRED SHARES**  
**OF BENEFICIAL INTEREST OF**  
**PMC COMMERCIAL TRUST**  
(the “**Statement**”)

The Trust Managers (the “**Trust Managers**”) of PMC Commercial Trust (the “**Trust**”), pursuant to the Declaration of Trust of the Trust (as amended, the “**Declaration**”) and Title 5 of the Texas Business Organizations Code (the “**Texas REIT Act**”) hereby (i) authorize the issuance of a class of Preferred Shares (the Class A Preferred Shares, as defined below) and (ii) [re]classify 65,028,571 of the authorized but unissued shares of the Trust into Class A Preferred Shares (as defined below).

**Defined Terms.**

“**Business Day**” shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in Texas are authorized or required by law, regulation or executive order to close.

“**Class A Preferred Amount**” shall have the meaning set forth in paragraph 3 below.

“**Class A Preferred Shares**” shall have the meaning set forth in paragraph 1 below.

“**Common Shares**” shall have the meaning set forth in the Declaration.

“**Conversion Date**” shall have the meaning set forth in paragraph 5(a) below.

“**Conversion Deadline**” shall mean [ ] [NTD: **six months from the closing**]; provided, however, that in the event that the Conversion Date does not occur on or prior to [ ] [NTD: **six months from the closing**] due to the occurrence of one or more of the events specified below (each, a “**Force Majeure Event**”), then the Conversion Deadline shall be extended by one day for each day by which such Force Majeure Event(s) has delayed the occurrence of the Conversion Date (provided that each of Trust and the holders of Common Shares and Class A Preferred Shares issued in connection with the Merger Agreement uses its reasonable commercial efforts to cure the applicable Force Majeure Event and effect the Conversion Date as promptly as practicable). For purposes of this Statement, “**Force Majeure Events**” shall mean: (a) any action taken by any court, governmental body (including the Securities and Exchange Commission), or any other person or entity unaffiliated with the holders of Common Shares and Class A Preferred Shares issued in connection with the Merger Agreement that prevents or delays the Conversion Date; or (b) fire, flood, earthquakes, interruption of utilities, strikes, labor disturbances, terrorism, riots, explosions, civil disorders, armed conflict, economic catastrophe, governmental (including Securities and Exchange Commission) shutdown, breakdowns or malfunctions, interruptions or malfunctions of computer facilities, loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, or other forces or events beyond the control of Trust and/or the holders of Common Shares and Class A Preferred Shares issued in connection with the Merger Agreement.

“**Dividend Date**” shall mean the record date, as defined in Section 6.101 of the Texas Business Organizations Code, pertaining to the most recent dividend declaration of the Trust on its Common Shares.

“**Junior Shares**” shall have the meaning set forth in paragraph 2.

“**Merger Agreement**” shall mean that certain Agreement and Plan of Merger, dated as of [], by and among CIM Urban REIT, LLC, CIM Merger Sub, LLC, Trust, and Southfork Merger Sub, LLC, as the same may be amended or otherwise modified.



“**Preferred Shares**” shall mean shares of beneficial interest of the Trust designated as or otherwise on a parity with the Class A Preferred Shares as to distributions and rights upon voluntary or involuntary liquidation, winding up or dissolution of the Trust as may be issued and outstanding from time to time

“**Trading Day**” shall mean any day on which the securities in question are traded on the NYSE Market, or if such securities are not listed or admitted for trading on the NYSE Market, on the principal national securities exchange on which such securities are listed or admitted.

“**Transfer Agent**” shall mean [ ], or such other agent or agents of the Trust as may be designated by the Trust Managers or their designee as the transfer agent for the Class A Preferred Shares.

All other capitalized terms used but not defined herein shall have the meanings ascribed to them in the Declaration.

#### **Class A Preferred Shares**

1. **Number and Designation.** A class of Preferred Shares, consisting of 65,028,571 Preferred Shares designated as Class A Convertible Cumulative Preferred Shares, \$.01 par value per share (liquidation preference \$17.50 per share) (the “**Class A Preferred Shares**”), is hereby established.

2. **Ranking.** In respect of rights to receive distributions and to participate in distributions or payments in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Trust, the Class A Preferred Shares shall rank *pari passu* with any other Preferred Shares of the Trust, and will rank senior to the Common Shares and any other class or series of shares of beneficial interest of the Trust ranking, as to distributions and upon liquidation, junior (collectively, the “**Junior Shares**”) to the Preferred Shares.

3. **Distributions.** The holders of the then outstanding Class A Preferred Shares shall be entitled to receive, when and as authorized by the Trust Managers and declared by the Trust out of any funds legally available therefor, cumulative distributions at the rate of 2% of \$35.00 per Class A Preferred Share (as equitably adjusted to reflect any stock split, subdivision, combination or similar event) per share per year (the “**Class A Preferred Amount**”). Distributions paid on the Class A Preferred Shares in an amount less than the total amount of such distributions at the time accrued and payable on such shares shall be allocated pro rata on a per share basis among all such shares at the time outstanding. Unless the full Class A Preferred Amount shall have been or contemporaneously is declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment, no dividends or distributions shall be declared or paid or set aside for payment nor shall any other dividend or distribution be declared or made upon the Common Shares or any Junior Shares (except for any dividends or distributions declared prior to the date hereof).

Except as provided in this Statement, the Class A Preferred Shares shall not be entitled to participate in the earnings or assets of the Trust.

#### 4. **Liquidation Rights.**

(a) Upon the voluntary or involuntary dissolution, liquidation or winding up of the Trust, the holders of the Class A Preferred Shares then outstanding shall be entitled to receive and to be paid out of the assets of the Trust available for distribution to its shareholders, before any payment or distribution shall be made on any Junior Shares, the amount of \$17.50 (as equitably adjusted to reflect any stock split, subdivision, combination or similar event) per share, plus accrued and unpaid distributions thereon.

(b) After the payment to the holders of the Class A Preferred Shares of the full preferential amounts provided for in paragraph 4(a), the holders of the Class A Preferred Shares will share, ratably with the Common Shares, in any distribution(s) of the remaining assets of the Trust; provided, that, for such purposes, each Class A Preferred Share shall be considered three and one-half (3.5) Common Shares, and each Class A Preferred Share shall receive a distribution pursuant to this paragraph 4(b)

that is three and one half (3.5) times the distribution paid to each Common Share (such 3.5 amount shall be equitably adjusted to reflect any stock split, subdivision, combination or similar event).

(c) If, upon any voluntary or involuntary dissolution, liquidation or winding up of the Trust, the amounts payable with respect to the preference value of the Class A Preferred Shares and any other shares of beneficial interest of the Trust ranking as to any such distribution on parity with the Class A Preferred Shares are not paid in full, the holders of the Class A Preferred Shares and of such other shares will share ratably in any such distribution of assets of the Trust in proportion to the full respective preference amounts to which they are entitled.

(d) Neither the sale of all or substantially all of the property or business of the Trust, nor the merger or consolidation of the Trust into or with any other entity or the merger or consolidation of any other entity into or with the Trust, shall be deemed to be a dissolution, liquidation or winding up, voluntary or involuntary, for purposes of this paragraph 4.

5. **Conversion.** On the Conversion Date, the Class A Preferred Shares shall automatically convert into Common Shares as follows:

(a) For the purposes hereof, the “**Conversion Date**” shall mean the first Business Day on which, pursuant to the Declaration, there are sufficient authorized but unissued shares to convert all of the Class A Preferred Shares into Common Shares, pursuant to the terms hereof.

(b) On the Conversion Date, each Class A Preferred Share shall automatically convert into 7 fully paid and non-assessable Common Shares (as equitably adjusted to reflect any stock split, subdivision, combination or similar event). Each holder of each Class A Preferred Share shall surrender the certificate representing such share, duly endorsed or assigned to the Trust or in blank, at the office of the Transfer Agent. Unless the shares issuable on conversion are to be issued in the same name as the name in which such Class A Preferred Share is registered, each share surrendered for conversion shall be accompanied by instruments of transfer, in form satisfactory to the Trust, duly executed by the holder or such holder’s duly authorized attorney and an amount sufficient to pay any transfer or similar tax (or evidence reasonably satisfactory to the Trust demonstrating that such taxes have been paid). As promptly as practicable after the surrender of certificates representing Class A Preferred Shares as aforesaid, the Trust shall issue and shall deliver at such office to such holder, or on his or her written order, a certificate or certificates for the number of full Common Shares issuable upon the conversion of such shares in accordance with the provisions of this paragraph 5. Upon conversion, holders of Class A Preferred Shares shall be entitled to receive a final distribution, per Class A Preferred Share, equal to the Class A Preferred Amount which had accrued up to the most recent Dividend Date and which remains unpaid as of the Conversion Date; provided, however, that if the Conversion Date occurs on or before the Conversion Deadline, the Class A Preferred Amount for the purposes of this paragraph 5(b) shall be calculated at the rate of 3.5% of \$35.00 per Class A Preferred Share (as equitably adjusted to reflect any stock split, subdivision, combination or similar event) per share per year. For the avoidance of doubt, (i) the payment(s) described in this paragraph 5(b) shall be considered paid prior to the conversion of the Class A Preferred Shares into Common Shares, and (ii) if the Conversion Date occurs on the same date as a Dividend Date, then (A) the Class A Preferred Amount shall accrue through the Dividend Date and the final distribution shall be paid in accordance therewith, and (B) the Common Shares resulting from the conversion of Class A Common Shares shall not be deemed held or owned on the Dividend Date.

(c) The Trust covenants that any Common Shares issued upon conversion of the Class A Preferred Shares shall be validly issued, fully paid and non-assessable. The Trust shall list the Common Shares required to be delivered upon conversion of the Class A Preferred Shares, prior to such delivery, upon each national securities exchange, if any, upon which the outstanding Common Shares are listed at the time of such delivery.

(d) The Trust will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of Common Shares or other securities or property on conversion of the

Class A Preferred Shares pursuant hereto; provided, however, that the Trust shall not be required to pay any tax that may be payable in respect of any transfer involved in the issue or delivery of Common Shares or other securities or property in a name other than that of title holder of the Class A Preferred Shares to be converted, and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Trust the amount of any such tax or established, to the reasonable satisfaction of the Trust, that such tax has been paid.

(e) Prior to the delivery of any securities that the Trust shall be obligated to deliver upon conversion of the Class A Preferred Shares, the Trust shall endeavor to comply with all federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by any governmental authority.

**6. Voting.**

(a) Except as otherwise provided herein, the holders of the Class A Preferred Shares shall be entitled to vote at any meeting of the shareholders for election of Trust Managers, for any other purposes and otherwise to participate in any action taken by the Trust or the shareholders thereof, and to receive notice (except for such notice as required by law) of any meeting of shareholders.

(b) In any matter in which the Class A Preferred Shares are entitled to vote, including any action by written consent, each Class A Preferred Share shall be entitled to 7 votes, each of which 7 votes may be directed separately by the holder thereof (or by any proxy or proxies of such holder). With respect to each Class A Preferred Share, the holder thereof may designate up to 7 proxies, with each such proxy having the right to vote a whole number of votes (totaling 7 votes per Class A Preferred Share). The number of proxies and votes set forth in this paragraph shall be equitably adjusted to reflect any stock split, subdivision, combination or similar event.

(c) So long as any Class A Preferred Shares remain outstanding, the Trust will not (whether by merger, consolidation or otherwise), without the affirmative vote or consent of the holders of at least two-thirds of the Class A Preferred Shares outstanding at the time, given in person or by proxy, either in writing or at a meeting (such class voting separately as a class), (i) authorize or create, or increase the authorized or issued amount of, any class or series of shares of beneficial interest ranking on a parity with or senior to the Class A Preferred Shares with respect to the payment of distributions or the distribution of assets upon liquidation, dissolution or winding up or reclassify any authorized shares of beneficial interest of the Trust into such shares, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any such shares; (ii) except for the amendment to the Declaration to increase the number of authorized Common Shares as contemplated in Section 8.18(a) of the Merger Agreement, amend, alter or repeal the provisions of the Declaration or the terms of the Class A Preferred Shares so as to affect any right, preference, privilege or voting power of the Class A Preferred Shares or the holders thereof; (iii) issue, combine or subdivide any shares of beneficial interest in the Trust (except upon exercise of stock options outstanding on the date hereof for the purchase of Common Shares) or (iv) issue any rights, options, warrants or other convertible securities evidencing the right to purchase shares of beneficial interest of the Trust.

(d) The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, there are no outstanding Class A Preferred Shares.

**7. Redemption.** The Class A Preferred Shares are not redeemable by any Person.

**8. Restrictions on Transfer.** The Class A Preferred Shares shall be subject to the restrictions on transfer and ownership of shares set forth in Article Twenty-One of the Declaration.

**9. Amendment.** The foregoing preferences, conversions, rights, voting powers, restrictions, limitations as to dividends, qualifications, terms and conditions of redemption, and all other terms regarding the Class A Preferred Shares may be amended with the affirmative vote of (i) the holders of at least two-thirds

of the Class A Preferred Shares outstanding at the time and (ii) a majority of the independent trust managers of the Trust; provided, that if any such amendment would have an adverse financial effect (as described below) greater than \$250,000 in the aggregate or a non-financial material adverse effect on the holders of the Common Shares, then such amendment must also receive the approval of the holders of at least a majority of the Common Shares voting on such amendment (not including any votes cast by CIM Urban REIT, LLC and its affiliates or the holders of the Class A Preferred Shares). In determining whether there would be an adverse financial effect in the aggregate or a non-financial material adverse effect to the holders of the Common Shares under this Section 9, the terms and provisions of the proposed amendment shall be compared to the terms and provisions of this Statement and the Merger Agreement assuming for purposes of such comparison that any and all of the terms and provisions of this Statement, as adopted by the Trust Managers, and the Merger Agreement, as executed by the parties thereto, are given full force and effect.

The Class A Preferred Shares have been [re]classified by the Trust Managers as authorized by the Declaration.

IN WITNESS WHEREOF, the Trust has caused this Statement to be duly executed on its behalf on the     day of     , 2013.

**PMC Commercial Trust**

By: \_\_\_\_\_  
Jan F. Salit, Chief Executive Officer

STATE OF TEXAS

COUNTY OF DALLAS

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified within and for the State and County aforesaid, personally came and appeared Jan F. Salit, in his capacity as Chief Executive Officer of PMC Commercial Trust, and acknowledged to me that he executed the above and foregoing instrument on behalf of the said PMC Commercial Trust.

This instrument was acknowledged before me on the     day of     , 2013.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My commission expires:

[PMC COMMERCIAL TRUST] [or such other name as is adopted]

- and -

CIM SERVICE PROVIDER, LLC

- and -

each of the Subsidiaries that has executed this Agreement on Schedule A hereto

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MASTER SERVICES AGREEMENT

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[                    ], 2013

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**MASTER SERVICES AGREEMENT**

THIS AGREEMENT made as of the [ ] day of [ ], 2013. [NTD: POSSIBLE EFFECTIVE DATE AFTER DATE OF MERGER]

**B E T W E E N:**

**PMC COMMERCIAL TRUST**, a Texas real estate investment trust (“**PMC Commercial**”)

- and -

**CIM SERVICE PROVIDER**, a Delaware limited liability company (the “**CIM Service Provider**”)

- and -

**each of the Subsidiaries** (as defined below)

**RECITALS:**

A. The Service Recipients (as defined below) directly or indirectly hold interests in real estate, loans, and other assets and will directly or indirectly acquire, from time to time, interests in other real estate, loans, and/or assets; and

B. **PMC Commercial** and the Subsidiaries (as defined below) wish to engage the CIM Service Provider to provide or arrange for other Service Providers (as defined below) to provide to the Service Recipients certain management and administration services, subject to the terms and conditions of this Agreement, and the CIM Service Provider wishes to accept such engagement.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions**

In this Agreement, except where the context otherwise requires, the following terms will have the following meanings:

1.1.1 “**Affiliate**” means, with respect to a Person, any other Person that, directly or indirectly, through one or more intermediaries, Controls or is Controlled by such Person, or is under common Control of a third Person;

1.1.2 “**Agreement**” means this Master Services Agreement;

1.1.3 “**Automatic Renewal Term**” has the meaning assigned thereto in Section 11.1.

1.1.4 “**Available Cash**” means all cash and cash equivalents of the Service Recipients available for distribution by the Service Recipients determined at the sole discretion of the Governing Body of PMC Commercial, which, for greater certainty, (i) may not in all cases equal an amount of cash held by the Service Recipients after the payment of expenses, debt service obligations on any indebtedness and any other expense or reserve for any liability, working capital or capital expenditure and (ii) may include cash that has been borrowed by any of the Service Recipients;



1.1.5 “**Base Fee Amount**” means an amount equal to \$1 million, which amount shall be adjusted for inflation annually beginning on January 1, 2014 at the Inflation Factor;

1.1.6 “**Base Services**” has the meaning assigned thereto in [Section 3.1](#);

1.1.7 “**Base Service Fee**” means the Base Service Fee, calculated quarterly in arrears, equal to 25% of the Base Fee Amount;

1.1.8 “**Business Day**” means a day which is not a Saturday or Sunday and on which banks are open for business in **[New York, New York]**;

1.1.9 “**Cause**” shall mean the commission by Urban GP Manager as the manager of the General Partner of an action, or the omission by Urban GP Manager as the manager of the General Partner to take an action, if such commission or omission constitutes willful misconduct, fraud, willful disregard for Urban GP Manager’s duties to the General Partner, in its capacity as manager of the General Partner, to CIM Partnership or to the Limited Partner in its capacity as limited partner of the CIM Partnership, gross negligence (determined in the context of the Standard of Care), or the conviction of Urban GP Manager or any Principal, who is still Affiliated with Urban GP Manager, of a felony involving moral turpitude or constituting a financial crime or criminal culpability in connection with a securities law violation, or a material breach of the Governing Instruments of the General Partner or CIM Partnership by Urban GP Manager that has not been cured within ten (10) Business Days after notice to Urban GP Manager, with respect to a monetary breach, or thirty (30) Business Days after notice to Urban GP Manager, with respect to a non-monetary breach and, in the case of a commission or omission that constitutes a non-monetary breach of the Governing Instruments of the General Partner or CIM Partnership that cannot be cured, that (i) results in a material detriment to CIM Partnership or the Limited Partner (i.e., causing damages in excess of \$500,000) or (ii) is part of a course of conduct which is more than negligibly injurious to CIM Partnership or the Limited Partner; provided, however, that in the event that a non-monetary breach cannot reasonably be cured within thirty (30) days despite Urban GP Manager’s diligent efforts to do so, the cure period for such breach will be extended for up to an additional ninety (90) days, but only for so long as the Urban GP Manager’s efforts to cure such breach remain diligent and continuous. Notwithstanding the fact that a commission or omission that constitutes a material breach of this Agreement that cannot be cured, may not constitute Cause, such determination shall have no effect on any liability which Urban GP Manager may otherwise have with respect to such act or omission.

1.1.10 “**CIM Entities**” means CIM Service Provider or any of its Affiliates;

1.1.11 “**CIM Partnership**” means CIM Urban Partners L.P., a Delaware limited partnership;

1.1.12 “**CIM Partnership Agreement**” means that certain Second Amended and Restated Agreement of Limited Partnership of CIM Partnership, dated as of December 22, 2005, as amended.

1.1.13 “**CIM Partnership Investment Management Agreement**” means that certain Investment Management Agreement dated May 20, 2005 between CIM Partnership, a Delaware limited partnership and CIM Urban REIT Management, LP a California limited partnership.

1.1.14 “**CIM Service Provider**” has the meaning assigned thereto in the preamble;

1.1.15 “**Claims**” has the meaning assigned thereto in [Section 10.1.1](#);

1.1.16 “**Code**” means the Internal Revenue Code of 1986, as amended.

1.1.17 “**Compensation Charge**” has the meaning assigned thereto in [Section 5.2](#);

1.1.18 “**Control**” means the control by one Person of another Person in accordance with the following: a Person (“**A**”) controls another Person (“**B**”) where A has the power to determine the management and policies of B by contract or status (for example, the status of A being the general partner of B) or by virtue of the beneficial ownership of or control over a majority of the voting interests in B; and, for greater certainty and without limitation, if A owns or has control over shares or other securities to which are attached more than 50% of the votes permitted to be cast in the election of directors to the Governing Body of B, or A is the general partner of B, a limited partnership, then in each case A Controls B for this purpose; and the term “**Controlled**” has the corresponding meaning;

1.1.19 “**Expense Statement**” has the meaning assigned thereto in [Section 7.7](#);

1.1.20 “**Expenses**” has the meaning assigned thereto in [Section 7.5.2](#);

1.1.21 “**Fair Market Value**” means, with respect to a Share, (i) if such Share is listed on a stock exchange or public quotation system, the Trading Price of such Share, or (ii) if such Share is not listed on a stock exchange or public quotation system, the fair market value of such Share determined by the Governing Body of PMC Commercial;

1.1.22 “**General Partner**” means the general partner of CIM Partnership.

1.1.23 “**Governing Body**” means (i) with respect to a corporation, the board of directors of such corporation, (ii) with respect to a limited liability company, the manager(s), director(s) or managing member(s) of such limited liability company, (iii) with respect to a partnership, the board, committee or other body of each general partner or managing partner of such partnership, that serves a similar function (or if any such general partner or managing partner is itself a partnership, the board, committee or other body of such general or managing partner’s general or managing partner that serves a similar function), (iv) with respect to a real estate investment trust, the trustees, directors, trust managers or other body of such real estate investment trust that serves a similar function, and (v) with respect to any other Person, the body of such Person that serves a similar function, and in the case of each of (i) through (iv) includes any committee or other subdivision of such body and any Person to whom such body has delegated any power or authority, including any officer or managing director;

1.1.24 “**Governing Instruments**” means (i) the declaration of trust and bylaws in the case of a real estate investment trust, (ii) the articles or certificate of incorporation and by-laws in the case of a corporation, (iii) the partnership agreement in the case of a partnership, (iv) the articles or certificate of formation and operating agreement in the case of a limited liability company, (v) the trust instrument in the case of a trust and (vi) any other similar governing document under which an entity was organized, formed or created or operates, including any conflict guidelines or protocols in place from time to time;

1.1.25 “**Governmental Authority**” means any (i) international, multinational, national, federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) self-regulatory organization or stock exchange, (iii) subdivision, agent, commission, board, or authority of any of the foregoing, or (iv) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing;

1.1.26 “**Governmental Charges**” has the meaning assigned thereto in [Section 7.6](#);

1.1.27 “**Indemnified Party**” has the meaning assigned thereto in [Section 10.1.1](#);

1.1.28 “**Indemnifying Party**” has the meaning assigned thereto in [Section 10.1.1](#);

1.1.29 “**Independent Members**” means the members of the Governing Body of PMC Commercial that are (i) “independent” of Manager and its Affiliates in accordance with PMC Commercial’s Governing Instruments and the rules of the Principal Exchange and (ii) disinterested with respect to the applicable matter at hand;

1.1.30 “**Inflation Factor**” shall mean the annualized rate based on the change in the core CPI (Consumer Price Index—United States—All Urban Consumers—All Items Less Food and Energy (non-seasonally adjusted) (1982-84=100)) (the “**Index**”) published by the United States Department of Labor, Bureau of Labor Statistics, during the calculation period. If at any time the Index is discontinued, CIM Service Provider will select a substitute index which is nearly equivalent thereto, which substitute index will be subject to the approval of the Independent Members. The Inflation Factor shall be calculated in accordance with the following formula:

$$(CPI_n / CPI_o) - 1$$

Where:

$CPI_n$  = Consumer Price Index as of January 1 of the current year

$CPI_o$  = Consumer Price Index as of January 1 of the prior year

1.1.31 “**Initial Term**” has the meaning assigned thereto in [Section 11.1](#).

1.1.32 “**Interest Rate**” means, for any day, the rate of interest equal to the overnight U.S. dollar London interbank offered rate on such day, as published in the Wall Street Journal (or if the Wall Street Journal ceases to publish such rates, a similar publication);

1.1.33 “**Investment Management Agreement**” means an investment management agreement between a Service Recipient and a Service Provider for the provision of external management services entered into pursuant to [Section 5.2.4](#).

1.1.34 “**Laws**” means any and all applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, principles of common and civil law and equity, rules, regulations and municipal by-laws, whether domestic, foreign or international, (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, and awards of any Governmental Authority, and (iii) policies, practices and guidelines of any Governmental Authority which, although not actually having the force of law, are considered by such Governmental Authority as requiring compliance as if having the force of law; and the term “**applicable**”, with respect to such Laws and in the context that refers to one or more Persons, means such Laws that apply to such Person or Persons or its or their business, undertaking, property or securities at the relevant time and that emanate from a Governmental Authority having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities;

1.1.35 “**Liabilities**” has the meaning assigned thereto in [Section 10.1.1](#);

1.1.36 “**Limited Partner**” means the limited partner of CIM Partnership.

1.1.37 “**Manager Change of Control**” means an event upon which Shaul Kuba, Richard Ressler and Avi Shemesh (each, a “**Principal**”) (or any of their heirs), individually or collectively, (i) cease to possess, directly or indirectly, beneficial ownership of more than fifty percent (50%) of the combined voting power of the CIM Service Provider’s then outstanding equity interests, or (ii) cease to possess the power to direct or control, directly or indirectly, the management policies of the Manager, whether through the ownership of beneficial interests, common directors or officers, by contract or otherwise; provided, however, that a

Manager Change of Control shall not be deemed to occur, and cannot occur, from and after a Public Transaction. For the purposes hereof, a “**Public Transaction**” shall mean (i) an initial public offering (whether a primary offering, a secondary offering or both) of membership units or other equity interests of CIM Service Provider (or any Affiliate thereof) pursuant to a registration statement under the Securities Act or any similar law then in effect pursuant to which the equity interests of the CIM Service Provider (or any Affiliate thereof) become publicly traded securities (or are convertible into publicly traded securities) or (ii) a merger of the CIM Service Provider (or its Affiliate) with and into, or other acquisition of the Manager by, a Person substantially in exchange for publicly traded securities.

1.1.38 “**Manager Group**” means the Manager and any other Service Providers who are Affiliates of CIM Service Provider (but excluding third party Service Providers);

1.1.39 “**Manager**” means CIM Service Provider and, subject to [Section 2.3](#), any other Affiliate of CIM Service Provider that is appointed by the CIM Service Provider from time to time to act as a manager pursuant to this Agreement;

1.1.40 “**Permit**” means any consent, license, approval, registration, permit or other authorization granted by any Governmental Authority;

1.1.41 “**Person**” means any natural person, real estate investment trust, partnership, limited partnership, limited liability partnership, joint venture, syndicate, sole proprietorship, company or corporation (with or without share capital), limited liability corporation, unlimited liability company, joint stock company, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted and pronouns have a similarly extended meaning;

1.1.42 “**PMC Commercial**” has the meaning assigned thereto in the preamble;

1.1.43 “**Principal Exchange**” means the principal stock exchange or public quotation system (determined on the basis of aggregate trading volume for the prior four months) on which the Shares are listed;

1.1.44 “**Quarter**” means a calendar quarter ending on the last day of March, June, September or December;

1.1.45 “**Regulation FD**” means Regulation FD as promulgated by the SEC.

1.1.46 “**REIT**” means a “real estate investment trust” as defined under the Code.

1.1.47 “**SEC**” means the United States Securities and Exchange Commission.

1.1.48 “**Service Providers**” means the Manager, any member of the CIM Entities, and any third party retained by the Manager that the Manager has arranged to provide Services to any Service Recipient;

1.1.49 “**Service Recipients**” means PMC Commercial and the Subsidiaries;

1.1.50 “**Services**” shall mean either or both of the Base Services and the Transactional Services, as the context requires;

1.1.51 “**Shares**” means the shares of common beneficial interest of PMC Commercial;

1.1.52 “**Special Subsidiary**” shall mean any of First Western SBLC, Inc., a Florida corporation, PMC Investment Corporation, a Florida corporation, Western Financial Capital Corporation, a Florida corporation, or any of their direct or indirect subsidiaries;

1.1.53 “**Standard of Care**” means in managing the affairs of CIM Partnership, and in its dealings with the Limited Partner, except as expressly provided in the CIM Partnership Agreement, Urban GP Manager as the manager of the General Partner of CIM Partnership shall owe the same fiduciary duty to the Limited Partner as a general partner owes each other partner in a general partnership under the laws of the State of Delaware, including: a duty of loyalty, which requires Urban GP Manager to carry out its responsibilities under the CIM Partnership Agreement with loyalty, honesty, good faith, and fairness toward CIM Partnership and the Limited Partner. Furthermore, Urban GP Manager shall invest CIM Partnership’s assets and exercise all of its powers and duties under the CIM Partnership Agreement in accordance with a degree of diligence, prudence and care that a prudent person exercises with respect to his or her own assets.

1.1.54 “**Subsidiary**” means any Person in which PMC Commercial owns a direct or indirect interest. Subject to [Section 12.5](#) hereof, any Person who becomes a Subsidiary after the date of this Agreement shall execute a joinder to this Agreement; however, each Subsidiary shall be bound by the terms of this Agreement regardless of whether a joinder is executed for such Subsidiary;

1.1.55 “**Third Party Claim**” has the meaning assigned thereto in [Section 10.1.2](#);

1.1.56 “**Trading Price**” means, in any Quarter, with respect to any Share that is listed on a stock exchange or public quotation system, the volume-weighted average trading price of such Share on the Principal Exchange for the five trading days ending on the last trading day of such Quarter; provided that where the Trading Price of such Share is calculated in any currency other than U.S. dollars, such amount will be converted to U.S. dollars for purposes of this Agreement in accordance with the applicable exchange rate, as determined by the Manager acting reasonably;

1.1.57 “**Transactional Service**” has the meaning set forth in [Section 3.2](#); and

1.1.58 “**Transaction Fee**” has the meaning set forth in [Section 7.8](#).

1.1.59 “**Urban GP Manager**” has the meaning set forth in [Section 5.2.3](#).

## 1.2 Headings and Table of Contents

The inclusion of headings and a table of contents in this Agreement are for convenience of reference only and will not affect the construction or interpretation hereof.

## 1.3 Interpretation

In this Agreement, unless the context otherwise requires:

1.3.1 words importing the singular will include the plural and vice versa, words importing gender will include all genders or the neuter, and words importing the neuter will include all genders;

1.3.2 the words “include”, “includes”, “including”, or any variations thereof, when following any general term or statement, are not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar items or matters, but rather as referring to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement;

1.3.3 references to any Person include such Person’s successors and permitted assigns;

1.3.4 except as otherwise provided in this Agreement, any reference in this Agreement to a statute, regulation, policy, rule or instrument will include, and will be deemed to be a reference also to, all rules and regulations made under such statute, in the case of a statute, to all amendments made to such statute, regulation, policy, rule or instrument, and to any statute, regulation, policy, rule or instrument that may be

passed which has the effect of supplementing or superseding the statute, regulation, policy, rule or instrument so referred to;

1.3.5 any reference to this Agreement or any other agreement, document or instrument will be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

1.3.6 in the event that any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount will be determined or such action will be required to be taken at or before the requisite time on the next succeeding day that is a Business Day; and

1.3.7 except where otherwise expressly provided, all amounts in this Agreement are stated and will be paid in U.S. currency.

#### **1.4 Actions by the Manager or the Service Recipients**

Unless the context requires otherwise, where the consent of or a determination is required by any Manager or Service Recipient hereunder, the parties will be entitled to conclusively rely upon it having been given or taken, as applicable, if, such Manager or Service Recipient, as applicable, has communicated the same in writing.

#### **1.5 Generally Accepted Accounting Principles**

In this Agreement, references to “generally accepted accounting principles” mean the generally accepted accounting principles used by PMC Commercial in preparing its financial statements from time to time.

#### **1.6 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

#### **1.7 Entire Agreement**

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement. There are no warranties, conditions, or representations (including any that may be implied by statute) and there are no agreements in connection with such subject matter except as specifically set forth or referred to in this Agreement. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into this Agreement, or any amendment or supplement hereto, by any party to this Agreement or its directors, officers, employees or agents, to any other party to this Agreement or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement, and none of the parties to this Agreement has been induced to enter into this Agreement or any amendment or supplement hereto by reason of any such warranty, representation, opinion, advice or assertion of fact. Accordingly, there will be no liability, either in tort or in contract, assessed in relation to any such warranty, representation, opinion, advice or assertion of fact, except to the extent contemplated above.

## **1.8 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

## **1.9 Governing Law**

This Agreement will be governed by and interpreted and enforced in accordance with the laws of the state of Delaware. Each party irrevocably attorns and submits to the non-exclusive jurisdiction of the New York courts situated in New York, New York and waives objection to the venue of any proceeding in such court or any argument that such court provides an inconvenient forum.

## **ARTICLE 2 APPOINTMENT OF THE MANAGER**

### **2.1 Appointment and Acceptance**

2.1.1 Subject to and in accordance with the terms, conditions and limitations in this Agreement, the Service Recipients hereby appoint the Manager to provide or arrange for other Service Providers (including third parties retained on Manager's behalf) to provide the Services to the Service Recipients. This appointment will be subject to each Service Recipient's Governing Body's supervision of the Manager and obligation to manage and control the affairs of such Service Recipient.

2.1.2 The Manager hereby accepts the appointment provided for in Section 2.1.1 and agrees to act in such capacity and to provide or arrange for other Service Providers to provide the Services to the Service Recipients upon the terms, conditions and limitations in this Agreement.

### **2.2 Subsidiaries**

Subject to Section 12.5 hereof, the parties acknowledge that any Subsidiary that is not a party to this Agreement will execute a joinder of this Agreement agreeing to be bound by the terms of this Agreement; however, each Subsidiary shall be bound by the terms of this Agreement regardless of whether a joinder is executed for such Subsidiary.

### **2.3 Other Manager**

The Manager may, from time to time, appoint an Affiliate of CIM Service Provider to act as a new Manager under this Agreement, effective upon the execution of a joinder agreement by the new Manager in the form set forth on Schedule B hereto.

### **2.4 Subcontracting and Other Arrangements**

The Manager may subcontract to any other Service Provider or any of its other Affiliates, or arrange for the provision of any or all of the Services to be provided by it under this Agreement by any other Service Provider or any other of its Affiliates, and the Service Recipients hereby consent to any such subcontracting or arrangement; provided that the Manager will remain responsible to the Service Recipients for any Services provided by such other Service Provider or Affiliate.

**ARTICLE 3**  
**SERVICES AND POWERS OF THE MANAGER**

**3.1 Base Services**

The Manager will provide or arrange for the provision by other Service Providers of, and will have the exclusive power and authority to provide or arrange for the provision by other Service Providers of, the following services (the “**Base Services**”) to the Service Recipients, for a fee as set forth in Article 7:

- 3.1.1 The non-exclusive right to make recommendations to the applicable nominating committee for members of PMC Commercial’s Governing Body;
- 3.1.2 providing overall strategic advice to PMC Commercial including advising with respect to the expansion of their business into new markets;
- 3.1.3 recommending suitable candidates to serve on the Governing Bodies of the Service Recipients (other than PMC Commercial);
- 3.1.4 making recommendations to the appropriate Governing Body with respect to the exercise of any voting rights to which the Service Recipients are entitled;
- 3.1.5 making recommendations to the PMC Governing Body with respect to the payment of dividends by PMC Commercial or any other distributions by the Service Recipients;
- 3.1.6 making recommendations to the PMC Governing Body with respect to individuals to carry out the functions of the principal executive, accounting and financial officers for PMC Commercial;
- 3.1.7 providing qualified individuals to act as senior officers of the Service Recipients as agreed from time to time, subject to the approval of the relevant Governing Body;
- 3.1.8 engaging and supervising, on PMC Commercial’s behalf and at PMC Commercial’s expense, independent contractors, including Affiliates of CIM Service Provider, that provide investment banking, securities brokerage, other financial services, due diligence services, underwriting review services, legal and accounting services, and all other services (including transfer agent and registrar services) as may be required relating to PMC Commercial’s operations and investments (or potential investments);
- 3.1.9 advising PMC Commercial as to its capital structure and capital raising activities;
- 3.1.10 advising PMC Commercial regarding marketing materials, advertising, industry group activities (such as conference participations and industry organization memberships) and other promotional efforts designed to promote PMC Commercial’s business;
- 3.1.11 providing all such other strategic planning services as may from time to time be deemed reasonably related to the above-listed Base Services as determined by the Manager; and
- 3.1.12 performing such other services as may be required from time to time for management and other activities relating to PMC Commercial’s properties and business, as its Governing Body shall reasonably request and the Manager shall deem appropriate under the particular circumstance.

To the extent that a service could be considered both a Base Service and a Transactional Service, such service shall be considered a Transactional Service.



## 3.2 Transactional Services

In the event that any Service Recipient would otherwise retain a third-party to perform any of the following “**Transactional Services**”, the Manager may elect, in its sole discretion, to provide, or have a Service Provider provide, such Transactional Service, for a fee to be approved by the Independent Members and determined pursuant to Section 7.8:

- 3.2.1 Identifying, recommending, negotiating terms, transacting and closing on acquisitions and dispositions of assets or businesses;
- 3.2.2 Overseeing, coordinating and executing on capital transactions for the Service Recipients whether in the form of debt, equity, preferred equity, bonds, debentures, or otherwise, including the preparation, review or distribution of any prospectus or offering memorandum in respect thereof and assisting with the communications support in connection therewith;
- 3.2.3 Securing, negotiating, structuring, working-out, amending and closing property level debt and other financing;
- 3.2.4 Identifying and securing Co-Investment or Joint Venture Partner equity for specific transactions;
- 3.2.5 Property management services;
- 3.2.6 Development and construction management services;
- 3.2.7 Leasing services;
- 3.2.8 Lending services and the origination of loans to third party borrowers;
- 3.2.9 Overseeing and assisting with the implementation of internal management at any Subsidiary as set forth in Section 5.2.4;
- 3.2.10 Obtaining insurance for Service Recipients and/or their properties;
- 3.2.11 Human resource services including, without limitation, payroll, payroll taxes, and benefits (including retirement benefits);
- 3.2.12 Accounting services; and
- 3.2.13 Activities related to the servicing of individual, or a portfolio, of loans due from third party borrowers.

The parties hereto agree that in the event any Service Recipient requires any other service for which a Service Recipient would otherwise need to retain a third party to perform, Manager or its affiliate shall have the right to perform such service as a Transactional Service. The fees and other terms and conditions under which the Transactional Service is to be rendered must be embodied in a written contract executed and delivered before the Transactional Service is to be rendered. For the avoidance of doubt, the Transactional Services are separate and apart from and are not duplicative of the services that are required to be provided under the CIM Partnership Investment Management Agreement, and notwithstanding anything to the contrary otherwise contained in this Agreement any services that are required to be provided under the CIM Partnership Investment Management Agreement cannot be performed under this Agreement as Transactional Services.

### 3.3 Supervision of the Manager's Activities

Notwithstanding anything to the contrary otherwise contained herein, (i) the Manager will, at all times, be subject to the supervision of the relevant Service Recipient's Governing Body, and (ii) no provision of this Agreement shall be construed as limiting the power and authority of each Service Recipient's Governing Body to manage the business and affairs of such Service Recipient.

### 3.4 Restrictions on the Manager

3.4.1 The Manager represents and warrants that it is familiar with the provisions of the Code applicable to REITs. The Manager shall refrain (and shall cause each other Service Provider to refrain) from taking any action that, in their good faith judgment, and each Service Providers shall be entitled to rely on the advice of counsel and tax advisors in making such good faith judgment, would adversely and materially affect the qualification of PMC Commercial as a REIT under the Code (or its ability to satisfy the asset, income, diversity of ownership and other requirements set forth in Section 856, et seq. of the Code), would result in PMC Commercial being required to pay any taxes (or other sums) under Sections 856(c)(7), 857(b)(5), 857(b)(6), 857(f), 860(c) or 4981 of the Code or would adversely affect its status as an entity excluded from investment company status under the Investment Company Act of 1940, as amended. This Section 3.4.1 will only apply to the extent that PMC's Governing Body intends that PMC continue to qualify as a REIT.

3.4.2 In performing its duties under this Agreement, each Service Provider will be entitled to rely in good faith on qualified experts, professionals and other agents (including on accountants, appraisers, consultants, legal counsel and other, professional advisors) and will be permitted to rely in good faith upon the direction of the applicable Governing Body to evidence any approvals or authorizations that are required under this Agreement. All references in this Agreement to the Service Recipients or Governing Body for the purposes of instructions, approvals and requests to the Manager will refer to the Governing Body.

3.4.3 The Manager acknowledges receipt of PMC Commercial's Code of Business Conduct and Ethics (the "**Code of Conduct**") and agrees to require such persons who provide services to PMC Commercial to comply with such Code of Conduct in the performance of such services hereunder or such comparable policies as shall in substance hold such persons to at least the standards of conduct set forth in the Code of Conduct.

3.4.4 CIM Service Provider, at its sole cost and expense, shall maintain any required registration of CIM Service Provider or any Affiliates with the SEC under the Investment Advisers Act of 1940, as amended. CIM Service Provider, at PMC Commercial's cost and expense, shall maintain any required registration of CIM Service Provider or any Affiliates with any state securities authority in any state in which CIM Service Provider or its Affiliates is required to be registered as an investment adviser under applicable securities Laws solely as a result of CIM Service Provider's or such Affiliate's provision of Services under this Agreement. In the event that CIM Service Provider or any such Affiliate is required to register and maintain any such registration under applicable securities Laws as a result of rendering services to third parties, the cost of such registration and maintenance shall be fairly and reasonably allocated between PMC Commercial and its Subsidiaries and such third parties.

3.4.5 The Manager will, and will cause any other Service Provider to, refrain from knowingly taking any action that is not in compliance with or would violate any Laws or that otherwise would not be permitted by the applicable Governing Instruments of the Service Recipients in performing the Services. If any Manager or any Service Provider is instructed to take any action that it believes is not in compliance with Section 3.4.1 or applicable Laws by the applicable Governing Body, such person will promptly notify such Governing Body of its judgment that such action would not comply with Section 3.4.1 or violate any such Laws or otherwise would not be permitted by such Governing Instrument, and shall not be obligated to take such action.

### **3.5 Errors and Omissions Insurance**

The Manager will, and will cause, any other Service Provider to, at all times during the term of this Agreement maintain “**errors and omissions**” insurance coverage and other insurance coverage which is customarily carried by Persons performing functions that are similar to those performed by the Service Providers under this Agreement and in an amount which is comparable to that which is customarily maintained by such other Persons. Such insurance shall name PMC Commercial as an additional insured.

### **3.6 No Commingling**

As necessary, the Manager shall establish and maintain one or more separate bank accounts in the name of a Service Recipient at a reputable bank or other financial institution. No funds of PMC Commercial or any Subsidiary shall be commingled with the funds of any other Person nor shall such funds be employed by the Manager or any Service Provider as compensating balances other than in respect of the relevant Service Recipient’s borrowings. The Manager shall from time to time render appropriate accountings of such collections and payments to PMC Commercial’s Governing Body and, upon request, to the auditors of PMC Commercial or any of its Subsidiaries.

## **ARTICLE 4 RELATIONSHIP BETWEEN THE MANAGER AND THE SERVICE RECIPIENTS**

### **4.1 Other Activities**

Nothing in this Agreement shall (i) prevent the Manager Group (or any Affiliate, director, officer, member, partner, shareholder or employee of any member of the Manager Group), from engaging in other businesses or from rendering services of any kind to any other person or entity, including, without limitation, investing in, or rendering advisory service to others investing in, any type of investments or other real estate investments (including, without limitation, investments that meet the principal investment objectives of PMC Commercial or its Subsidiaries), whether or not the investment objectives or policies of any such other person or entity are similar to those of PMC Commercial or its Subsidiaries, or (ii) in any way bind or restrict Manager Group (or any Affiliate, director, officer, member, partner, shareholder or employee of any member of the Manager Group) from buying, selling or trading any securities or commodities for their own accounts or for the account of others for whom the Manager Group (or any Affiliate, director, officer, member, partner, shareholder or employee of any member of the Manager Group) may be acting. The Manager Group has an allocation policy and procedure in place, and the Service Providers shall operate in compliance with such allocation policy and procedure, as it may be amended from time to time.

### **4.2 Exclusivity**

The Service Recipients will not, during the term of this Agreement, engage any other Person to provide any services comparable to the Base Services or the services under an Investment Management Agreement without the prior written consent of the Manager.

### **4.3 Independent Contractor, No Partnership, Joint Venture or Agency**

The parties acknowledge that the Manager is providing or arranging for the provision of the Services hereunder as independent contractors and that the Service Recipients and the Manager are not partners or joint venturers with or agents of each other, and nothing herein will be construed so as to make them partners, joint venturers or agents or impose any liability as such on any of them as a result of this Agreement; provided however that nothing herein will be construed so as to prohibit the Service Recipients and the Manager from embarking upon an investment together as partners, joint venturers or in any other manner whatsoever.

**ARTICLE 5**  
**MANAGEMENT AND EMPLOYEES**

**5.1 Management and Employees**

5.1.1 The Manager will arrange, or will arrange for Service Provider to arrange, for such qualified personnel and support staff to be available to carry out the Services. Such personnel and support staff will devote such of their time to the provision of the Services to the Service Recipients as the relevant member of the Manager Group reasonably deems necessary and appropriate in order to fulfill its obligations hereunder. Such personnel and support staff need not have as their primary responsibility the provision of the Services to the Service Recipients or be dedicated exclusively to the provision of the Services to the Service Recipients.

5.1.2 Each of the Service Recipients will do all things reasonably necessary on its part as requested by any member of the Manager Group consistent with the terms of this Agreement to enable the members of the Manager Group to fulfill their obligations, covenants and responsibilities and to exercise their rights pursuant to this Agreement, including making available to the Manager Group, and granting the Manager Group access to, the employees and contractors of the Service Recipients as any member of the Manager Group may from time to time request.

**5.2 Compensation Charges**

5.2.1 The parties acknowledge and agree that it may be desirable for employees and other personnel of any member of the Service Recipients or the CIM Entities to provide services not included in the Services to a member of the other group. In these cases, all or a portion of the compensation (including cash, options or other security-based compensation) paid or payable to employees or other personnel who devote a portion of their time to the provision of services to the other group may be allocated to a member of such other group (a “**Compensation Charge**”).

5.2.2 At the end of each calendar year, PMC Commercial and Manager agree to negotiate in good faith the terms of any Compensation Charge in respect of that calendar year; provided that the amount of any Compensation Charge allocated to a member of the Service Recipients must be approved by the Independent Members.

**5.2.3 Management of CIM Partnership**

PMC Commercial hereby agrees to appoint a member of the CIM Entities, as designated by the CIM Entities, as the manager (the “**Urban GP Manager**”) of the General Partner. The parties hereto agree that subject to the limitations set forth in the Governing Instruments of CIM Partnership and the General Partner (i) the Urban GP Manager shall have the power and authority to manage, to direct the management, business and affairs of and to make all decisions to be made by or on behalf of (x) the General Partner and (y) CIM Partnership, and (ii) if Cause shall exist with respect to CIM Partnership then the Independent Members or, subject to the terms of the Governing Instruments of PMC Commercial, the PMC Commercial shareholders, shall have the right to call a special meeting of the PMC Commercial shareholders for the purpose of voting on the removal of Urban GP Manager as the manager of the General Partner and the holders of at least sixty-six and two thirds percent (66 2/3%) of the outstanding shares of PMC Commercial (excluding for this purpose any shares held by the Manager Group and their Affiliates, except to the extent set forth in the immediately following sentence), may remove Urban GP Manager as the manager of the General Partner and the Independent Members shall appoint a replacement manager of the General Partner. Notwithstanding the foregoing, CIM Urban REIT, LLC shall have the right to vote any shares of PMC Commercial that it owns with respect to any vote held to remove Urban GP Manager as the manager of the General Partner; provided, however, if any such removal vote is held after the second anniversary of this Agreement, CIM Urban REIT, LLC shall obtain voting instructions from each of its

remaining Class A Members (excluding any Class A Members that are part of the Manager Group or Affiliates of the Manager Group) with respect to voting the shares beneficially owned by such Class A Member and CIM Urban REIT, LLC shall vote the number of shares beneficially owned by each such Class A Member as so instructed by such Class A Member. The Urban GP Manager may also be removed as the manager of the General Partner in the event the Urban GP Manager dissolves, makes a general assignment for the benefit of creditors, institutes bankruptcy proceedings, consents to the filing of a petition of bankruptcy against it, is adjudicated by a court of competent jurisdiction as being bankrupt or insolvent, seeks reorganization under any bankruptcy law or consents to the filing of a petition seeking such reorganization or has a decree entered against it by a court of competent jurisdiction appointing a receiver, liquidator, trustee or assignee in bankruptcy or insolvency.

#### 5.2.4 Management of New Businesses

The Manager may develop plans and recommend new business opportunities to the PMC Governing Body for its approval. For each new business recommended by the Manager, the parties hereto agree that the Manager shall recommend for the approval of the PMC Commercial Governing Body whether each new Subsidiary or Subsidiaries comprising such new business shall be internally managed or externally managed (and if externally managed, the Person who shall be the external Manager and the terms of the applicable Investment Management Agreement); provided, however, that if the proposed external manager shall be a Service Provider, the decision to make such Subsidiary externally managed and the terms of the applicable Investment Management Agreement must be approved by the Independent Members. If the Subsidiary shall be internally managed, a Service Provider shall oversee the hiring of personnel and the implementation of internal management at any Subsidiary as a Transactional Service.

## ARTICLE 6 INFORMATION AND RECORDS

### 6.1 Books and Records; Confidentiality

(a) The Manager Group shall maintain appropriate books of accounts and records relating to services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of PMC Commercial or any Subsidiary at any time during normal business hours. In addition, the Manager Group will make available to the Service Recipients or their authorized representatives such financial and operating data in respect of the performance of the Services under this Agreement as may be in existence and as the Service Recipients or their authorized representatives may from time to time reasonably request, including for the purposes of conducting any audit in respect of expenses of the Service Recipients or other matters necessary or advisable to be audited in order to conduct an audit of the financial affairs of the Service Recipients. The Manager Group shall keep confidential any and all non-public information, written or oral, obtained by them in connection with the services rendered hereunder (“**Confidential Information**”) and shall not use Confidential Information except in furtherance of their duties under this Agreement or disclose Confidential information, in whole or in part, to any Person other than (i) to their Affiliates, officers, directors, employees, agents, representatives or advisors who need to know such Confidential Information for the purpose of rendering services hereunder, (ii) to appraisers, financing sources and others in the ordinary course of PMC Commercial’s business ((i) and (ii) collectively, “**Manager Permitted Disclosure Parties**”), (iii) in connection with any governmental or regulatory filings of PMC Commercial, or filings with the Principal Exchange or other applicable securities exchanges or markets, or disclosure or presentations to PMC Commercial’s investors (subject to compliance with Regulation FD), (iv) to governmental officials having jurisdiction over PMC Commercial, (v) as required by law or legal process to which the Manager or any Person to whom disclosure is permitted hereunder is a party, or (vi) with the consent of PMC Commercial. The Manager agrees to inform each of their Manager Permitted Disclosure Parties of the non-public nature of the Confidential Information and to obtain agreement from such Persons to treat such Confidential information in accordance with the terms hereof.

(b) Nothing herein shall prevent any Manager Permitted Disclosure Party from disclosing Confidential information (i) upon the order of any court or administrative agency, (ii) upon the request or demand of, or pursuant to any law or regulation to, any regulatory agency or authority, (iii) to the extent reasonably required in connection with the exercise of any remedy hereunder, or (iv) to its legal counsel or independent auditors; provided, however, that with respect to clauses (i) and (ii), it is agreed that, so long as not legally prohibited, the Manager will provide PMC Commercial with prompt written notice of such order, request or demand so that PMC Commercial may seek, at its sole expense, an appropriate protective order and for waive the Manager Permitted Disclosure Party compliance with the provisions of this Agreement. If, failing the entry of a protective order or the receipt of a waiver hereunder, the Manager Permitted Disclosure Party is required to disclose Confidential Information, the Manager Permitted Disclosure Party may disclose only that portion of such information that is legally required without liability hereunder; provided, that the Manager Permitted Disclosure Party agrees to exercise its commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such Confidential Information.

(c) Notwithstanding anything herein to the contrary, each of the following shall be deemed to be excluded from provisions hereof: any Confidential Information that (A) is available to the public from a source other than the Manager, (B) is released in writing by PMC Commercial to the public (except to the extent exempt under Regulation FD) or to persons who are not under similar obligation of confidentiality to PMC Commercial, or (C) is obtained by the Manager from a third-party which, to the best of the Manager's knowledge, does not constitute a breach by such third-party of an obligation of confidence with respect to the Confidential Information disclosed. The provisions of this Section 6.1 shall survive the expiration or earlier termination of this Agreement.

## **6.2 Access to Information by Manager Group**

6.2.1 The Service Recipients will, as necessary to provide the Services:

6.2.1.1 grant, or cause to be granted, to the Manager Group full access to all documentation and information, including all of the books, records, documents and financial and operating data of the Service Recipients necessary in order for the Manager Group to perform its obligations, covenants and responsibilities pursuant to the terms hereof and to enable the Manager Group to provide the Services; and

6.2.1.2 provide, or cause to be provided, all documentation and information as may be reasonably requested by any member of the Manager Group, and promptly notify the appropriate member of the Manager Group of any material facts or information of which the Service Recipients are aware, including any known, pending or threatened suits, actions, claims, proceedings or orders by or against any member of the Service Recipients before any Governmental Authority, that may affect the performance of the obligations, covenants or responsibilities of the Manager Group pursuant to this Agreement, including the maintenance of proper financial records.

## **6.3 Additional Information**

The parties acknowledge and agree that conducting the activities and providing the Services contemplated herein may have the incidental effect of providing additional information which may be utilized with respect to, or may augment the value of, business interests and related assets in which any Service Provider or any of its Affiliates has an interest and that, subject to compliance with this Agreement, none of the Service Providers or any of their respective Affiliates will be liable to account to the Service Recipients with respect to such activities or results; provided, however, that the relevant Service Provider will not (and will cause its Affiliates not to), in making any use of such additional information, do so in any manner that the relevant Service Provider or any of its Affiliates knows, or ought reasonably to know, would cause or result in a breach of any confidentiality provision of agreements to which any Service Recipient is a party or is bound.

**ARTICLE 7  
FEES AND EXPENSES**

**7.1 Base Service Fee**

7.1.1 The Service Recipients hereby agree to pay as provided by this Article 7, during the term of this Agreement, the Base Service Fee, quarterly in arrears. The Base Service Fee will accrue commencing on the date hereof and will be pro-rated based on the number of days during the first Quarter in which this Agreement is in effect.

**7.2 Computation and Payment of Base Service Fee**

7.2.1 The Manager or another Service Provider will compute each installment and allocation of the Base Service Fee as soon as practicable, but in any event no later than five Business Days, following the end of the Quarter with respect to which such installment is payable. Payment of the Base Service Fee for any Quarter (whether in cash, Shares, or any combination of the foregoing) will be due and payable no later than the 45th day following the end of such Quarter.

7.2.2 For any Quarter in which the Independent Members determines that the Service Recipients have insufficient Available Cash to pay the Base Service Fee as well as the next regular distribution on Shares, the Service Recipients may elect to pay all or a portion of the Base Service Fee payable in such Quarter in Shares, provided that any such election will be made within 45 days following the end of the applicable Quarter. If the Service Recipients elect to pay all or a portion of the Base Service Fee in Shares, PMC Commercial will issue, and the applicable Manager hereby agrees to acquire, Shares equal to the portion of the Base Service Fee elected to be paid in Shares divided by the Fair Market Value of a Share on the date the Service Recipients make such election (provided that no fractional Shares will be issued, and such number will be rounded down to the nearest whole number with the remainder payable to the Manager in cash). In such case, PMC Commercial shall apply such payment against the subscription price for such Shares.

7.2.3 If the Service Recipients elect to pay all or any portion of the Base Service Fee for any Quarter in Shares, the Service Recipients will take or cause to be taken all appropriate action to issue such Shares including any action required to ensure that such Shares are issued in accordance with applicable Laws and listed on any applicable stock exchanges and public quotation systems.

**7.3 Failure to Pay When Due**

Any amount payable by any Service Recipient to any member of the Manager Group hereunder which is not remitted when so due will remain due (whether on demand or otherwise) and interest will accrue on such overdue amounts (both before and after judgment) at a rate per annum equal to the Interest Rate.

**7.4 Amendment to the Base Fee Amount**

The parties acknowledge and agree that it may be desirable to increase or reduce the Base Fee Amount from time to time. The Base Fee Amount may be increased or reduced from time to time with the mutual approval of the Independent Members and CIM Service Provider.

**7.5 Expenses**

7.5.1 The Manager acknowledges and agrees that the Service Recipients will not be required to reimburse any member of the Manager Group for the salaries and other remuneration of the management, personnel or support staff who provide the Base Services to such Service Recipients or overhead for such persons, other

than as contemplated by Section 7.5.2. Subject to Section 7.5.2, no member of the Manager Group shall be reimbursed for any costs and expenses relating to the general operation of such member's business, including administrative expenses, office expenses, insurance of the Manager Group and their employees, rent, and all or any part of any member of the Manager Group's travel expenses and legal expenses that are not directly incurred in the course of the business, and for the benefit of the Service Recipients.

7.5.2 Each of the Service Recipients will reimburse the relevant member of the Manager Group for all direct expenses and out-of-pocket fees, costs and expenses, including those of any third party (other than those contemplated by Section 7.5.1) ("**Expenses**"), incurred by the relevant member of the Manager Group in connection with the provision of the Base Services. Such Expenses are expected to include, among other things:

7.5.2.1 the cost of any insurance required to be obtained by the Service Providers under this Agreement, including without limitation, pursuant to Section 3.5;

7.5.2.2 all insurance costs incurred in connection with the operation of PMC Commercial's or any of its Subsidiaries' business, including, without limitation, any costs to obtain liability or other insurance to indemnify the Manager, the Service Providers and underwriters of any securities of PMC Commercial, but excluding the costs attributable to the insurance that the Manager elects to carry for itself and its personnel;

7.5.2.3 fees, costs and expenses incurred in connection with the general administration of any Service Recipient;

7.5.2.4 taxes, licenses and other statutory fees or penalties levied against or in respect of a Service Recipient in respect of Services;

7.5.2.5 amounts owed by the relevant member of the Manager Group under indemnification, contribution or similar arrangements;

7.5.2.6 any other fees, costs and expenses incurred by the relevant member of the Manager Group that are reasonably necessary for the performance by the relevant member of the Manager Group of its duties and functions under this Agreement; and

7.5.2.7 direct expenses of the Manager Group allocable to the provision of the Services, including without limitation, accounting expenses and information technology expenses associated with any computer software or hardware, electronic equipment or purchased information technology services from third-party vendors that is used for the Service Recipients.

## **7.6 Governmental Charges**

Without limiting Section 7.5, the Service Recipients will pay or reimburse the relevant member of the Manager Group for all sales taxes, use taxes, value added taxes, goods and services taxes, harmonized sales taxes, withholding taxes or other similar taxes, customs duties or other governmental charges ("**Governmental Charges**") that are levied or imposed by any Governmental Authority by reason of this Agreement or the fees or other amounts payable hereunder, except for any income taxes, corporation taxes, capital taxes or other similar taxes payable by any member of the Manager Group which are personal to such member of the Manager Group. Any failure by the Manager Group to collect monies on account of these Governmental Charges will not constitute a waiver of the right to do so.



## 7.7 Computation and Payment of Expenses and Governmental Charges

From time to time the Manager will, or will cause the other Service Providers to, prepare statements (each an “**Expense Statement**”) documenting the Expenses and Governmental Charges to be reimbursed by the Service Recipients pursuant to this Article 7 and will deliver such statements to the relevant Service Recipient. All Expenses and Governmental Charges reimbursable pursuant to this Article 7 will be reimbursed by the relevant Service Recipient no later than the date which is 30 days after the receipt of an Expense Statement. The provisions of this Section 7.7 will survive the termination of this Agreement.

## 7.8 Transactional Service Fees

In connection with the provision of a Transactional Service, in addition to the Base Service Fee, the applicable Service Recipients shall pay to the applicable Service Providers a “**Transaction Fee**” equal to the fair market rate charged by similar quality service providers providing similar services in the same geographic market and are generally at least as favorable to the Service Recipient as the terms available in an arm’s-length transaction with a third party; provided, however, that the Service Provider may agree to accept a lower fee, in its sole discretion. The Transaction Fee shall be due at such times as is market for the applicable Transactional Service. The Transaction Fee for property management, leasing brokerage and development management services will not exceed the limits set forth on Schedule B to the CIM Partnership Agreement, as the same may be amended from time to time with the approval of the Independent Members to add Transactional Services and the related Transaction Fees thereto or to modify the amount of any Transaction Fee set forth thereon (the “**Approved Transaction Fee Services**”). Except for any agreement that provides for the provision of Approved Transaction Fee Services, without the approval of the Independent Members, the Service Recipients and the Manager Group will not enter into or amend any individual agreement which obligates the Service Recipients to pay, in the aggregate, Transaction Fees in excess of \$500,000 per calendar year. At each quarterly meeting of the PMC Commercial Governing Body, the Manager shall provide the PMC Commercial Governing Body with a schedule of all arrangements for Transactional Services (excluding Approved Transaction Fee Services) entered into during the prior quarter, which summary shall identify the agreement and the parties thereto, summarize the Transactional Services provided thereunder and the Transaction Fee payable thereunder. Following the review and consideration by the Governing Body of PMC Commercial, if the Independent Members determines that any Transaction Fees that are payable or that have been paid by the Service Recipients do not meet the standard set forth in the first sentence of this Section 7.8, the Independent Members and the Manager shall negotiate in good faith the proper fee.

## ARTICLE 8 RESERVED

## ARTICLE 9 REPRESENTATIONS AND WARRANTIES OF THE MANAGER AND THE SERVICE RECIPIENTS

### 9.1 Representations and Warranties of the Manager

The Manager hereby represents and warrants to the Service Recipients that:

- 9.1.1 it (and, as applicable, its general partner) is validly organized and existing under the Laws governing its formation and existence;
- 9.1.2 it, or another Service Provider, holds such Permits necessary to perform its obligations hereunder and is not aware of any reason why such Permits might be cancelled;
- 9.1.3 it (or, as applicable, its general partner on its behalf) has the power, capacity and authority to enter into this Agreement and to perform its duties and obligations hereunder;

9.1.4 it (or, as applicable, its general partner) has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

9.1.5 the execution and delivery of this Agreement by it (or, as applicable, its general partner on its behalf) and the performance by it of its obligations hereunder do not and will not contravene, breach or result in any default under its Governing Instruments (or, as applicable, the Governing Instruments of its general partner), or under any mortgage, lease, agreement or other legally binding instrument, Permit or applicable Law to which it is a party or by which it or any of its properties or assets may be bound;

9.1.6 no authorization, consent or approval, or filing with or notice to any Person is required in connection with the execution, delivery or performance by it (or, as applicable, its general partner on its behalf) of this Agreement; and

9.1.7 this Agreement constitutes a valid and legally binding obligation of it enforceable against it in accordance with its terms, subject to: (i) applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and other laws of general application limiting the enforcement of creditors' rights and remedies generally; and (ii) general principles of equity, including standards of materiality, good faith, fair dealing and reasonableness, equitable defenses and limits as to the availability of equitable remedies, whether such principles are considered in a proceeding at law or in equity.

## **9.2 Representations and Warranties of the Service Recipients**

Each of the Service Recipients (or, as applicable, its general partner on its behalf) hereby represents and warrants to the Manager that:

9.2.1 it (and, as applicable, its general partner) is validly organized and existing under the Laws governing its formation and existence;

9.2.2 it holds such Permits necessary to own and operate the assets that it directly or indirectly owns or operates from time to time and is not aware of any reason why such Permits might be cancelled;

9.2.3 it (or, as applicable, its general partner on its behalf) has the power, capacity and authority to enter into this Agreement and to perform its duties and obligations hereunder;

9.2.4 it (or, as applicable, its general partner) has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

9.2.5 the execution and delivery of this Agreement by it (or, as applicable, its general partner on its behalf) and the performance by it of its obligations hereunder do not and will not contravene, breach or result in any default under its Governing Instruments (or, if applicable, the Governing Instruments of its general partner), or under any mortgage, lease, agreement or other legally binding instrument, Permit or applicable Law to which it is a party or by which any of its properties or assets may be bound;

9.2.6 no authorization, consent or approval, or filing with or notice to any Person is required in connection with the execution, delivery or performance by it (or, as applicable, its general partner on its behalf) of this Agreement; and

9.2.7 this Agreement constitutes a valid and legally binding obligation of it enforceable against it in accordance with its terms, subject to: (i) applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and other laws of general application limiting the enforcement of creditors' rights and remedies generally; and (ii) general principles of equity, including standards of materiality, good faith, fair dealing and reasonableness, equitable defenses and limits as to the availability of equitable remedies, whether such principles are considered in a proceeding at law or in equity.

**ARTICLE 10**  
**LIABILITY AND INDEMNIFICATION**

**10.1 Indemnity**

10.1.1 The Service Recipients (for the purposes of this Article 10, each a “**Recipient Indemnifying Party**”) hereby jointly and severally agree, to the fullest extent permitted by applicable Laws, to indemnify and hold harmless each member of the Manager Group, any of its Affiliates (other than any member of the PMC Commercial Group) and any directors, officers, agents, subcontractors, contractors, delegates, members, partners, shareholders, employees and other representatives of each of the foregoing (each, a “**Manager Indemnified Party**”) from and against any claims, liabilities, losses, damages, costs or expenses (including legal fees) (“**Liabilities**”) incurred by them or threatened in connection with any and all actions, suits, investigations, proceedings or claims of any kind whatsoever, whether arising under statute or action of a Governmental Authority or otherwise or in connection with the business, investments and activities of the Service Recipients or in respect of or arising from this Agreement or the Services provided hereunder (“**Claims**”), including any Claims arising on account of the Governmental Charges contemplated by Section 7.6; provided that no Manager Indemnified Party will be so indemnified with respect to any Claim to the extent that such Claim resulted from such Manager Indemnified Party’s fraud, willful misconduct, gross negligence or any violation of any Federal or state securities law or any other intentional or criminal wrongdoing or a material breach of the terms of this Agreement. Such determination shall be made by the Independent Members; provided, however, that if there is a good-faith dispute as to whether such standard has been met (which shall be determined in the good-faith judgment of the Independent Members), the Manager Indemnified Party shall be entitled to indemnification unless it is finally determined by a final and non-appealable judgment entered by a court of competent jurisdiction, or pursuant to a settlement agreement agreed to by such Manager Indemnified Party, that such Manager Indemnified Party did not meet such standard.

10.1.2 Each member of the Manager Group (for the purposes of this Article 10, each a “**Manager Indemnifying Party**”; a Manager Indemnifying Party and a Recipient Indemnifying Party are each sometimes referred to herein as an “**Indemnifying Party**”) shall, jointly and severally, to the fullest extent permitted by applicable Laws, reimburse, indemnify and hold harmless the Service Recipients, and their trust managers, directors, officers, agents, members, partners, shareholders, employees and other representatives (each, a “**Company Indemnified Party**”; a Manager Indemnified Party and a Recipient Indemnified Party are each sometimes referred to herein as an “**Indemnified Party**”) of and from any and all Liabilities in respect of or arising from (i) any acts or omissions of the Manager constituting willful misconduct, gross negligence or any violation of any Federal or state securities law or any other intentional or criminal wrongdoing or a breach of the terms of this Agreement, or (ii) any Claims by the Manager’s employees relating to the terms and conditions of their employment by the Manager.

10.1.3 The Manager and the Service Recipients agree that if any action, suit, investigation, proceeding or Claim is made or brought by any third party with respect to which an Indemnifying Party is obligated to provide indemnification under this Agreement (a “**Third Party Claim**”), the Indemnified Party will have the right to employ its own counsel in connection therewith, and the reasonable fees and expenses of such counsel, as well as the reasonable costs (excluding an amount reimbursed to such Indemnified Party for the time spent in connection therewith) and out of pocket expenses incurred in connection therewith will be paid by the Indemnifying Party in such case, as incurred but subject to recoupment by the Indemnifying Party if ultimately it is not liable to pay indemnification hereunder.

10.1.4 The Manager and the Service Recipients agree that, promptly after the receipt of notice of the commencement of any Third Party Claim, the Indemnified Party in such case will notify the Indemnifying Party in writing of the commencement of such Third Party Claim (provided that any accidental failure to provide any such notice will not prejudice the right of any such Indemnified Party hereunder) and,

throughout the course of such Third Party Claim, such Indemnified Party will use its best efforts to provide copies of all relevant documentation to such Indemnifying Party and will keep the Indemnifying Party apprised of the progress thereof and will discuss with the Indemnifying Party all significant actions proposed.

10.1.5 The parties hereto expressly acknowledge and agree that the right to indemnity provided in this Section 10.1 will be in addition to and not in derogation of any other liability which the Indemnifying Party in any particular case may have or of any other right to indemnity or contribution which any Indemnified Party may have by statute or otherwise at law.

10.1.6 The indemnities provided in this Section 10.1 will survive the completion of Services rendered under, or any termination or purported termination of, this Agreement.

## **10.2 Limitation of Liability**

10.2.1 The Manager assumes no responsibility under this Agreement other than to render the Services in good faith and will not be responsible for any action of a Service Recipient's Governing Body in following or declining to follow any advice or recommendations of the relevant Service Provider, including as set forth in Section 3.3 hereof.

10.2.2 The Service Recipients hereby agree that no Indemnified Party will be liable to a Service Recipient, a Service Recipient's Governing Body (including, for greater certainty, a director or officer of a Service Recipient or another individual with similar function or capacity) or any security holder or partner of a Service Recipient for any Liabilities that may occur as a result of any acts or omissions by the Indemnified Party pursuant to or in accordance with this Agreement, except by reason of acts or omissions constituting fraud, willful misconduct, gross negligence or any violation of any Federal or state securities law or any other intentional or criminal wrongdoing or a breach of the terms of this Agreement.

10.2.3 The maximum amount of the aggregate liability of the Indemnified Parties pursuant to this Agreement will be equal to the Base Fee Amount and Transaction Fees (excluding Transaction Fees paid with respect to property management, leasing brokerage and development management services) previously paid in respect of the Services pursuant to this Agreement in the two most recent calendar years by the Service Recipients.

10.2.4 For the avoidance of doubt, the provisions of this Section 10.2 will survive the completion of the Services rendered under, or any termination or purported termination of, this Agreement. For the avoidance of doubt, the limitations on liability set forth in this Section 10.2 do not apply to any liability that any member of the Manager Group may have pursuant to the CIM Partnership Investment Management Agreement, the CIM Partnership Agreement, or any other agreement.

## **ARTICLE 11 TERM AND TERMINATION**

### **11.1 Term**

This Agreement will continue in full force and effect, until December 31, 2018 (the "**Initial Term**") unless terminated in accordance with the terms hereof. After the Initial Term, this Agreement shall be renewed automatically each year for an additional one-year period (an "**Automatic Renewal Term**") unless PMC Commercial or the Manager terminate this Agreement in accordance with Section 11.2 or Section 11.3, as applicable.

## 11.2 Termination by the Service Recipients

11.2.1 The Independent Members may, subject to Section 11.2.3, terminate this Agreement effective upon 30 days' prior written notice of termination to the Manager without payment of any termination fee if:

11.2.1.1 the Manager defaults in the performance or observance of any material term, condition or agreement contained in this Agreement in a manner that results in material harm to the Service Recipients and such default continues for a period of 60 days after written notice thereof specifying such default and requesting that the same be remedied in such 60-day period; provided, however, that if the fact, circumstance or condition that is the subject of such obligation cannot reasonably be remedied within such 60-day period and if, within such period, the Manager provides reasonable evidence to the Service Recipients that they have commenced, and thereafter proceed with all due diligence, to remedy the fact, circumstance or condition that is the subject of such obligation, such period will be extended for a reasonable period satisfactory to the Service Recipients, acting reasonably, for the Manager to remedy the same;

11.2.1.2 the Manager engages in any act of fraud, misappropriation of funds or embezzlement against any Service Recipient that results in material harm to the Service Recipients;

11.2.1.3 the Manager acts, or fails to act, in a manner constituting gross negligence, willful misconduct or reckless disregard in the performance of its obligations under this Agreement, in each case that results in material harm to the Service Recipients;

11.2.1.4 a Manager Change of Control occurs that the Independent Members determines is materially detrimental to the Service Recipients as a whole; or

11.2.1.5 the Manager dissolves or makes a general assignment for the benefit of its creditors, institutes proceedings to be adjudicated voluntarily bankrupt, consents to the filing of a petition of bankruptcy against it, is adjudicated by a court of competent jurisdiction as being bankrupt or insolvent, seeks reorganization under any bankruptcy law or consents to the filing of a petition seeking such reorganization or has a decree entered against it by a court of competent jurisdiction appointing a receiver liquidator, trustee or assignee in bankruptcy or in insolvency.

11.2.2 This Agreement may be terminated by the mutual agreement of the Independent Members and the Manager.

11.2.3 Each of the Service Recipients hereby agrees and confirms that this Agreement may not be terminated due solely to the poor performance or underperformance of any of the Service Recipient's operations or any investment made by any member of the Service Recipients on the recommendation of any member of the Manager Group.

## 11.3 Termination by the Manager

11.3.1 The Manager may terminate this Agreement effective upon written notice of termination to the Service Recipients without payment of any termination fee if:

11.3.1.1 any Service Recipient defaults in the performance or observance of any material term, condition or agreement contained in this Agreement in a manner that results in material harm to the Manager and such default continues for a period of 60 days after written notice thereof specifying such default and requesting that the same be remedied in such 60-day period; provided, however, that if the fact, circumstance or condition that is the subject of such obligation cannot reasonably be remedied within such 60-day period and if, within such period, the Service Recipients provide reasonable

evidence to the Manager that they have commenced, and thereafter proceed with all due diligence, to remedy the fact, circumstance or condition that is the subject of such obligation, such period will be extended for a reasonable period satisfactory to the Manager, acting reasonably, for the Service Recipients to remedy the same; or

11.3.1.2 any Service Recipient makes a general assignment for the benefit of its creditors, institutes proceedings to be adjudicated voluntarily bankrupt, consents to the filing of a petition of bankruptcy against it, is adjudicated by a court of competent jurisdiction as being bankrupt or insolvent, seeks reorganization under any bankruptcy law or consents to the filing of a petition seeking such reorganization or has a decree entered against it by a court of competent jurisdiction appointing a receiver liquidator, trustee or assignee in bankruptcy or in insolvency.

#### **11.4 Survival Upon Termination**

If this Agreement is terminated pursuant to this Article 11, such termination will be without any further liability or obligation of any party hereto, except as provided in Section 6.1, Section 6.3, Section 7.3, Section 7.7, Article 10, Section 11.5 and Section 11.6.

#### **11.5 Action Upon Termination**

11.5.1 From and after the effective date of the termination of this Agreement, the Manager will not be entitled to receive the Base Service Fee for further Services under this Agreement, but will be paid all compensation accruing to and including the date of termination (or acquisition).

11.5.2 Upon any termination of this Agreement, the Manager will forthwith:

11.5.2.1 after deducting any accrued compensation and reimbursements for any Expenses to which it is then entitled, pay over to the Service Recipients all money collected and held for the account of the Service Recipients pursuant to this Agreement;

11.5.2.2 deliver to the Service Recipients' Governing Bodies a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Governing Bodies with respect to the Service Recipients;

11.5.2.3 deliver to the Service Recipients' Governing Bodies all property and documents of the Service Recipients then in the custody of the Manager Group; and

11.5.2.4 cooperate with PMC Commercial and the Subsidiaries in executing an orderly transition of the management of PMC Commercial's consolidated assets to PMC Commercial or a new manager.

#### **11.6 Release of Money or other Property Upon Written Request**

The Manager hereby agrees that any money or other property of the Service Recipients or their Subsidiaries held by the Manager Group under this Agreement will be held by the relevant member of the Manager Group as custodian for such Person, and the relevant member of the Manager Group's records will be appropriately marked clearly to reflect the ownership of such money or other property by such Person. Upon the receipt by the Manager of a written request signed by a duly authorized representative of a Service Recipient requesting the Manager to release to the Service Recipient any money or other property then held by the Manager for the account of such Service Recipient under this Agreement, the Manager will release such money or other property to the Service Recipient within a reasonable period of time, but in no event later than 30 business days following such request. Upon delivery of such money or other property to the Service Recipient, the Manager will not be

liable to any Service Recipient, a Service Recipient's Governing Body or any other Person for any acts performed or omissions to act by a Service Recipient in connection with the money or other property released to the Service Recipient in accordance with the second sentence of this Section 11.6. Each Service Recipient will indemnify and hold harmless the relevant member of the Manager Group, any of its Affiliates (other than any member of the PMC Commercial Group) and any directors, officers, agents, subcontractors, delegates, members, partners, shareholders, employees and other representatives of each of the foregoing from and against any and all Liabilities which arise in connection with the relevant member of the Manager Group's proper release of such money or other property to the Service Recipient in accordance with the terms of this Section 11.6. Indemnification pursuant to this provision will be in addition to any right of such Persons to indemnification under Section 10.1 hereof. For the avoidance of doubt, the provisions of this Section 11.6 will survive termination of this Agreement.

## **ARTICLE 12 GENERAL PROVISIONS**

### **12.1 RESERVED**

### **12.2 Assignment**

12.2.1 This Agreement will not be assigned by the Manager without the prior written consent of PMC Commercial, except in the case of assignment by the Manager to an Affiliate or to a Person that is its successor by merger or acquisition of the business of the Manager Group in which case the Affiliate or successor will be bound under this Agreement and by the terms of the assignment in the same manner as such Manager is bound under this Agreement, and such Manager will be fully and forever released from all obligations arising under this Agreement other than those obligations that have arisen prior to such assignment taking effect. In addition, provided that the Manager provides prior written notice to the Service Recipients for informational purposes only, nothing contained in this Agreement will preclude any pledge, hypothecation or other transfer or assignment of any of the Manager's rights under this Agreement, including any amounts payable to the Manager under this Agreement, to a bona fide lender as security; provided, however, that the foreclosure of any such pledge shall be treated as a material breach by the Manager of this Agreement. In addition, nothing contained in this Section 12.2.1 will affect the Manager's ability to enter into subcontracting and other arrangements pursuant to Section 2.4.

12.2.2 This Agreement will not be assigned by any of the Service Recipients without the prior written consent of the Manager, except in the case of assignment by a Service Recipient to a Person that is its successor by merger or acquisition of the business of the Service Recipient, in which case the successor will be bound under this Agreement and by the terms of the assignment in the same manner as the Service Recipient is bound under this Agreement, and, in each case, such Service Recipient will be fully and forever released from all obligations arising under this Agreement other than those obligations that have arisen prior to such assignment taking effect.

12.2.3 Any purported assignment of this Agreement in violation of this Section 12.2 will be null and void.

### **12.3 Inurement**

This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

### **12.4 Notices**

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile, by e-mail or other means of electronic communication or

by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile, by e-mail or other means of electronic communication with confirmation of transmission without notation of error, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this section. Notices and other communications will be addressed as follows:

12.4.1 if to PMC Commercial:

[            ]

Attention: [            ]

12.4.2 if to the CIM Service Provider:

[            ]

Attention: [            ]

12.4.3 if to any new Manager appointed pursuant to Section 2.3, at the address listed in the joinder agreement executed by the new Manager

12.4.4 if to any of the Subsidiaries, at the applicable address listed on Schedule A hereto or to such other addresses as a party may from time to time notify the others in accordance with this Section 12.4.

### **12.5 Governmental Authority**

Notwithstanding anything to the contrary otherwise contained in this Agreement, if the execution and delivery of this Agreement or the performance by any Special Subsidiary of its obligations hereunder would contravene, breach, conflict with or violate any requirement of any Governmental Authority having jurisdiction over the conduct of its business or the ownership of its assets, such Special Subsidiary shall not be required to execute and shall not otherwise be bound or subject to the terms of this Agreement.

### **12.6 Further Assurances**

Each of the parties hereto will promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other party hereto may reasonably require from time to time for the purpose of giving effect to this Agreement and will use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

### **12.7 Counterparts**

This Agreement may be signed in counterparts and each of such counterparts will constitute an original document and such counterparts, taken together, will constitute one and the same instrument.



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**12.8 Amendments**

This Agreement, nor any terms hereof, may not be amended, supplemented or modified in any respect except in an instrument in writing duly executed by the parties hereto and with the approval of the Independent Members.

**12.9 Independent Members**

The Independent Members shall have the right to enforce the indemnification obligations of the Manager with respect to the Service Providers under Article X hereof on behalf of the Service Recipients and the termination rights of the Service Recipients under Section 11.2 on behalf of the Service Recipients. For the avoidance of doubt, the Independent Members shall have the right to engage advisors, including without limitation, legal and financial advisors, at the expense of the Service Recipients, to assist the members of the Independent Members in exercising its rights and satisfying its obligations under this Agreement.

[NEXT PAGE IS SIGNATURE PAGE]

IN WITNESS WHEREOF the parties have executed this Agreement as of the day and year first above written.

**PMC Commercial:**

PMC Commercial Trust, a Texas real estate investment trust

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CIM SERVICE PROVIDER:**

CIM Service Provider, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Schedule A**

**Joinder of Subsidiaries to Master Services Agreement**

**IN WITNESS WHEREOF** the Subsidiaries have executed this Agreement as of the day and year first above written.

[NAME]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[NAME]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[NAME]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[NAME]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[NAME]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Joinder**

This Joinder is attached hereto and made a part of the foregoing Agreement and all terms capitalized but not defined herein shall have the respective meanings given to them in the Agreement. The undersigned Subsidiary hereby executes this Joinder as of the date set forth below for the purposes of acknowledging and agreeing that it is a Subsidiary subject to the terms of the Agreement.

Date: \_\_\_\_\_

[NAME]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Schedule B**

**JOINDER TO MASTER SERVICES AGREEMENT**

THIS JOINDER to the Master Services Agreement dated as of [ ], 2013 among PMC Commercial Trust (“**PMC Commercial**”), CIM Service Provider, LLC (“**CIM Service Provider**”), and the Subsidiaries (the “**Master Services Agreement**”) is made and entered into as of this day of , by a [corporation/partnership/limited partnership] governed by the laws of (the “**New Manager**”). Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Master Services Agreement.

**RECITALS:**

A. The Master Services Agreement provides that the Manager may, from time to time, appoint an Affiliate of CIM Service Provider to act as a new Manager under that agreement;

B. The New Manager is an Affiliate of CIM Service Provider; and

C. The Manager wishes to appoint the New Manager to act as a new Manager under the Master Services Agreement and the New Manager wishes to accept such appointment.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained in this Joinder and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

1. **Agreement to be Bound.** The New Manager hereby agrees that upon execution of this Joinder, it shall become a party to the Master Services Agreement and acknowledges that it is fully bound by, and subject to, all of the covenants, representations, terms and conditions of the Manager under the Master Services Agreement.
2. **Successors and Assigns.** Any purported assignment of this Joinder in violation of section 12.2 of the Master Services Agreement will be null and void.
3. **Inurement.** This Joinder will inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
4. **Notices.** Notices and other communications to the New Manager will be addressed as follows:
5. **Counterparts.** This Joinder may be signed in counterparts and each of such counterparts will constitute an original document and such counterparts, taken together, will constitute one and the same instrument.
6. **Governing Law.** This Joinder will be governed by and interpreted and enforced in accordance with the laws of the State of Delaware.

[NEXT PAGE IS SIGNATURE PAGE]

IN WITNESS WHEREOF the parties have executed this Joinder to the Master Services Agreement as of the day and year first above written.

CIM Service Provider, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
\_\_\_\_\_

**REGISTRATION RIGHTS AND LOCKUP AGREEMENT**

**BY AND AMONG**

**PMC COMMERCIAL TRUST**

**AND**

**CIM URBAN REIT, LLC**

**CIM URBAN PARTNERS GP, LLC**

\_\_\_\_\_  
**DATED AS OF** \_\_\_\_\_, 2013  
\_\_\_\_\_

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## REGISTRATION RIGHTS AND LOCKUP AGREEMENT

**THIS REGISTRATION RIGHTS AND LOCKUP AGREEMENT** (this "Agreement") is made and entered into as of \_\_\_\_\_, 2013 by and between PMC Commercial Trust, a Texas real estate investment trust (the "Company"), CIM Urban REIT, LLC, a Delaware limited liability company ("CIM"), and CIM Urban Partners GP, LLC, a Delaware limited liability company ("CIM GP").

WHEREAS, pursuant to the Agreement and Plan of Merger, dated as of July 8, 2013 (as the same may be amended, modified and supplemented from time to time prior to the date hereof, the "Merger Agreement"), by and among the Company, Southfork Merger Sub, LLC, a Delaware limited liability company and a direct wholly owned subsidiary of the Company ("PMC Merger Sub"), CIM and CIM Merger Sub, LLC, a Delaware limited liability company and a direct wholly owned subsidiary of CIM ("CIM Merger Sub"), CIM Merger Sub will merge with and into PMC Merger Sub (the "Merger") in accordance with applicable state law and upon the terms and conditions set forth in the Merger Agreement;

WHEREAS, in connection with the Merger, CIM and CIM GP shall in the aggregate be entitled to receive (i) 22,000,003 common shares of beneficial interest, par value \$0.01 per share, of the Company (the "Common Shares"), and (ii) 65,028,571 convertible preferred shares of beneficial interest, par value \$0.01 per share, of the Company (the "Preferred Shares"); and

WHEREAS, the parties wish to provide for the registration rights, lock up restrictions, and other rights and obligations set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises set forth herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

### 1. Registration Rights.

#### 1.1. Definitions.

For purposes of this Agreement:

(a) "Disclosure Package" means (i) the preliminary prospectus, (ii) each Free Writing Prospectus and (iii) all other information that is deemed, under Rule 159 under the Securities Act, to have been conveyed to purchasers of securities at the time of sale (including, without limitation, a contract of sale).

(b) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(c) "Form S-3" means such form under the Securities Act as in effect on the date hereof or any successor form under the Securities Act subsequently adopted by the SEC which permits inclusion or incorporation of substantial information by reference to other documents filed by the Company with the SEC.

(d) "Free Writing Prospectus" means any "free writing prospectus," as defined in Rule 405 of the Securities Act.

(e) "Hedging Counterparty" means a broker-dealer registered under Section 15(b) of the Exchange Act or an affiliate thereof or any other financial institution or third party.

(f) "Hedging Transaction" means any transaction involving a security linked to the Registrable Class Securities or any security that would be deemed to be a "derivative security" (as defined in Rule 16a-1(c) under the Exchange Act) with respect to the Registrable Class Securities or any transaction (even if not a security) which would (were it a security) be considered such a derivative security, or which transfers some or all of the economic risk of ownership of the Registrable Class Securities, including, without limitation, any forward

contract, equity swap, put or call, put or call equivalent position, collar, non-recourse loan, sale of exchangeable security or similar transaction. For the avoidance of doubt, the following transactions shall be deemed to be Hedging Transactions:

(i) transactions by a Holder in which a Hedging Counterparty engages in short sales of Registrable Class Securities pursuant to a prospectus and may use Registrable Securities to close out its short position;

(ii) transactions pursuant to which a Holder sells short Registrable Class Securities pursuant to a prospectus and delivers Registrable Securities to close out its short position; and

(iii) transactions by a Holder in which the Holder delivers, in a transaction exempt from registration under the Securities Act, Registrable Securities to the Hedging Counterparty who will then publicly resell or otherwise transfer such Registrable Securities pursuant to a prospectus or an exemption from registration under the Securities Act.

(g) “Holder” means any person owning or having the right to acquire Registrable Securities or any assignee thereof in accordance with Section 1.11 hereof.

(h) “Law” means any statute, law, ordinance, rule or regulation of any governmental entity.

(i) “Merger Issuance Shares” means (i) the Common Shares and Preferred Shares issued pursuant to the Merger Agreement; (ii) the Common Shares issued upon conversion of the Preferred Shares issued pursuant to the Merger Agreement; and (iii) any shares of capital stock issued as (or issuable upon the conversion or exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or upon exercise or in exchange for or in replacement of, the shares referenced in (i) or (ii) above.

(j) “Public Sale” means any sale of Registrable Securities to the public pursuant to a public offering registered under the Securities Act or to the public through a broker or market-maker pursuant to the provisions of Rule 144 (or any successor rule) adopted under the Securities Act or any other public offering not required to be registered under the Securities Act.

(k) “Register,” “registered” and “registration” refer to a registration effected by preparing and filing a registration statement or similar document in compliance with the Securities Act, and the declaration or ordering of effectiveness of such registration statement or document.

(l) “Registrable Class Securities” means securities of the Company that are of the same class and series as the Registrable Securities.

(m) “Registrable Securities” means: (i) the Common Shares issued to CIM or CIM GP pursuant to the Merger Agreement; (ii) any Common Shares acquired on or after the date hereof by any of the Holders, including any and all Common Shares acquired upon conversion of the Preferred Shares issued to CIM or CIM GP pursuant to the Merger Agreement; and (iii) any shares of capital stock issued as (or issuable upon the conversion or exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of the shares referenced in (i) or (ii) above; provided, that Registrable Securities shall not include (x) the Preferred Shares issued to CIM or CIM GP pursuant to the Merger Agreement; or (y) any Common Shares previously (A) sold in a Public Sale, or (B) sold in a transaction in which the transferor’s rights hereunder are not assigned in accordance with Section 1.11 hereof.

(n) The number of shares of “Registrable Common Securities then outstanding” shall be determined by the number of Common Shares outstanding which are, and the number of Common Shares issuable pursuant to then exercisable or convertible securities which are, Registrable Securities.

(o) The term “SEC” means the Securities and Exchange Commission.

(p) “Securities Act” means the Securities Act of 1933, as amended.

## **1.2. Request for Registration.**

(a) If the Company shall receive a written request from the Holders of at least a majority of the Registrable Common Securities then outstanding (the “Initiating Holders”) that the Company file a registration

statement under the Securities Act covering the registration of at least 5% of the Registrable Common Securities then outstanding, or a lesser percent if the anticipated aggregate offering price, net of underwriting discounts and commissions, would exceed \$5.0 million, then the Company shall:

(i) within ten (10) days of the receipt thereof, give written notice of such request to all Holders; and

(ii) use commercially reasonable efforts to effect promptly the registration under the Securities Act of all Registrable Securities which the Holders request to be registered, subject to the limitations of subsection 1.2(b), in a written request received by the Company within fifteen (15) days of the making of the notice pursuant to Section 1.2(a)(i).

(b) If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to subsection 1.2(a) and the Company shall include such information in the written notice referred to in subsection 1.2(a). The underwriter or underwriters will be selected by the Company, subject to the approval of a majority in interest of the Initiating Holders. In such event, the right of any Holder to include Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in subsection 1.5(i)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Section 1.2, if the managing underwriter advises the Company and the Initiating Holders in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated among all Holders thereof, including the Initiating Holders, in proportion (as nearly as practicable) to the amount of Registrable Securities of the Company owned by each Holder at the time of the filing of the registration statement; provided, however, that the number of shares of Registrable Securities held by Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting. Registrable Securities excluded or withdrawn from such underwriting shall be withdrawn from the registration.

(c) Notwithstanding the foregoing, if the Company shall furnish to Holders requesting a registration statement pursuant to this Section 1.2, a certificate signed by the Company's chief executive officer or the chairman of the board of trust managers of the Company (the "Board") stating that in the good faith judgment of the Board, as evidenced by a resolution by the Board, it would be seriously detrimental to the Company and its stockholders for such registration statement to be filed and it is therefore essential to defer the filing of such registration statement, the Company shall have the right to defer taking action with respect to such filing for a period of not more than sixty (60) days after receipt of the request of the Initiating Holders; provided, that the Company may not utilize this right more than once in any twelve month period; provided further, that this right is cumulative to the right under Section 1.4(b)(iii) such that the Company may only defer the filing of a registration statement under Section 1.2(c) or Section 1.4(b)(iii) once in any twelve-month period.

(d) In addition, the Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to this Section 1.2:

(i) After the Company has effected eight (8) registrations pursuant to this Section 1.2 and such registration statements have been declared or ordered effective and have remained effective for a period of at least 180 days; provided, that if such request pursuant to this Section 1.2 is subsequently withdrawn by the requester in writing, it shall not be counted against the limitation of requests set forth in this Section 1.2(d)(i);

(ii) If the Company has effected a registration pursuant to this Section 1.2 within the preceding three (3) months, and such registration has been declared or ordered effective; or

(iii) If the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 1.4 below.

### **1.3. Company Registration.**

(a) If (but without any obligation to do so) the Company proposes to register any of its capital stock under the Securities Act for its own account or the account of any of its stockholders with registration rights (other than in connection with a registration effected solely to implement an employee benefit plan or arrangement or a business combination transaction or any other similar transaction for which a registration statement on Form S-4 under the Securities Act or any comparable successor form is applicable), the Company will promptly give written notice thereof to the Holders of Registrable Securities at least twenty (20) days prior to the filing of such registration statement, or such lesser time that is reasonable taking into account the Company's contractual obligation to file such registration statement. Upon the written request of each Holder given within fifteen (15) days after the giving of such notice by the Company, the Company shall, subject to the provisions of this Section 1.3, cause to be registered under the Securities Act in such registration statement all of the Registrable Securities that each such Holder has requested to be registered.

(b) In connection with any offering involving an underwriting of shares of the Company's capital stock, the Company shall not be required under this Section 1.3 to include any of the Holders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters selected by it, and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. Regardless of any other provision of this Section 1.3, if the underwriter advises the Company that marketing factors require a reduction in the number of shares to be underwritten, then the number of shares of Registrable Securities that may be included in the underwriting shall be allocated first, to the Company and the Person or Persons requesting such registration (if other than the Company) shall be entitled to participate in accordance with the relative priorities, if any, as shall exist among them; and then second, all other holders of securities having the right to include such securities in such registration (including the Holders of the Registrable Securities) shall be entitled to participate pro rata based on the number of shares requested to be sold by such Holders. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 1.3 prior to the effectiveness of such registration whether or not any Holder has elected to include securities in such registration. The registration expenses of such withdrawn registration shall be borne by the Company in accordance with Section 1.8 hereof.

### **1.4. Form S-3 Registration.**

Notwithstanding anything in Section 1.2 or Section 1.3 to the contrary, in case the Company shall receive from any Holders of Registrable Common Securities then outstanding or Registrable Preferred Securities then outstanding, a written request or requests that the Company effect a registration on Form S-3 and any related qualification or compliance with respect to all or a part of the Registrable Securities owned by such Holder or Holders, and the Company is then eligible to use Form S-3 for the resale of Registrable Securities, the Company will:

(a) promptly give written notice of the proposed registration, and any related qualification or compliance, to all other Holders; and

(b) promptly effect such registration and all such qualifications and compliances as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such Holder's or Holders' Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any other Holder or Holders joining in such request as are specified in a written request given within fifteen (15) days after receipt of such written notice from the Company; provided, that the Company shall not be obligated to effect any such registration, qualification or compliance, pursuant to this Section 1.4:

(i) if Form S-3 is not available for such offering by the Holders;

(ii) if the Holders, together with the holders of any other securities of the Company entitled to inclusion in such registration, propose to sell Registrable Securities at an aggregate price to the public (net of any underwriters' discounts or commissions) of less than \$2.5 million;

(iii) if the Company shall furnish to the Holders a certificate signed by the Company's chief executive officer or chairman of the Board stating that in the good faith judgment of the Board as evidenced by a resolution by the Board, it would be seriously detrimental to the Company and its stockholders for such Form S-3 registration to be effected at such time, in which event the Company shall have the right to defer the filing of the Form S-3 registration statement for a period of not more than sixty (60) days after receipt of the request of the Holder or Holders under this Section 1.4; provided, that the Company shall not utilize this right more than once in any twelve-month period; provided further, that this right is cumulative to the right under Section 1.2(c) such that the Company may only defer the filing of a registration statement under Section 1.2(c) or Section 1.4(b)(iii) once in any twelve-month period;

(iv) if the Company has, within the three (3) month period preceding the date of such request, already effected one (1) registration on Form S-3 for the Holders pursuant to Section 1.3, provided, that any such registration shall be deemed to have been "effected" if the registration statement relating thereto (A) has become or been declared or ordered effective under the Securities Act, and any of the Registrable Securities of the Initiating Holder(s) included in such registration have actually been sold thereunder and (B) has remained effective for a period of at least 180 days; or

(v) in any particular jurisdiction in which the Company would be required to qualify to do business or to execute a general consent to service of process in effecting such registration, qualification or compliance.

(c) Subject to the foregoing, the Company shall file a registration statement covering the Registrable Securities and other securities so requested to be registered promptly after receipt of the request or requests of the Holders. Registrations effected pursuant to this Section 1.4 shall not be counted as requests for registration effected pursuant to Section 1.2 or Section 1.3, respectively.

(d) If the Holders intend to distribute the Registrable Securities covered by their request under this Section 1.4 by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to this Section 1.4 and the Company shall include such information in the written notice referred to in subsection 1.4(a). The underwriter or underwriters will be selected by the Company, subject to the approval of a majority in interest of the Holders participating in such registration. In such event, the right of any Holder to include Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Holders participating in the registration and the Holder) to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in subsection 1.5(h)) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such underwriting. Notwithstanding any other provision of this Section 1.4, if the managing underwriter advises the Company and the Holders participating in such underwriting in writing that marketing factors require a limitation of the number of shares to be underwritten, then the Company shall so advise all Holders of Registrable Securities which would otherwise be underwritten pursuant hereto, and the number of shares of Registrable Securities that may be included in the underwriting shall be allocated among all Holders thereof, in proportion (as nearly as practicable) to the amount of Registrable Securities of the Company owned by each Holder at the time of the filing of the registration statement; provided, however, that the number of shares of Registrable Securities held by Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting. Registrable Securities excluded or withdrawn from such underwriting shall be withdrawn from the registration.

#### **1.5. Obligations of the Company.**

Whenever required under this Section 1 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) Prepare and file with the SEC a registration statement with respect to such Registrable Securities and use commercially reasonable efforts to cause such registration statement to become effective, and, upon the

request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for 180 days or, if earlier, until the distribution contemplated in the registration statement has been completed; provided, that, in the case of any registration of Registrable Securities on Form S-3 which are intended to be offered on a continuous or delayed basis, such 180-day period shall be extended, if necessary, to keep the registration statement continuously effective, supplemented and amended to the extent necessary to ensure that it is available for sales of such Registrable Securities, and to ensure that it conforms with the requirements of this Agreement, the Securities Act and the policies, rules and regulations of the SEC as announced from time to time, until the earlier of when (i) the Holders have sold all of such Registrable Securities and (ii) the Holders may sell all of such Registrable Securities on a single day pursuant to Rule 144(k) promulgated under the Securities Act as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent and the affected Holders.

(b) Prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement; provided, that before filing a registration statement, or any amendments or supplements thereto, the Company will furnish to counsel selected by the Holders of the Registrable Securities covered by such registration statement to represent such Holders, copies of all documents proposed to be filed, which documents (other than the documents incorporated by reference therein) will be subject to the review of such counsel.

(c) Furnish to the Holders and any Hedging Counterparty, if any, such numbers of copies of such registration statement, the prospectus included in such registration statement (including each preliminary prospectus, summary prospectus and Free Writing Prospectus), and of each amendment and supplement thereto (in each case including all exhibits filed therewith, including any documents incorporated by reference), in conformity with the requirements of the Securities Act, and such other documents as they may reasonably request in order to facilitate the public sale or other disposition of Registrable Securities owned by such Holder or Hedging Counterparty.

(d) Register and qualify the securities covered by such registration statement under such other securities or blue sky laws of such jurisdictions as shall be reasonably requested by the Holders and do any and all other acts and things which may be reasonably necessary or advisable to enable such Holders to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Holder; provided, that the Company shall not be required in connection therewith or as a condition thereto (i) to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, (ii) subject itself to taxation in any jurisdiction or (iii) in the case of a registration pursuant to Section 1.3, register or qualify such Holder's Registrable Securities in any jurisdiction where shares to be sold by the Company or any other Person initiating such registration are not to be registered or qualified.

(e) Notify each Holder of Registrable Securities covered by such registration statement and any Hedging Counterparty, if applicable, at any time when a prospectus relating thereto is required to be delivered under the Securities Act, of the Company's becoming aware that the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances then existing, and at the request of any such Holder or Hedging Counterparty, prepare and furnish to such Holder and Hedging Counterparty a reasonable number of copies of an amended or supplemental prospectus as may be necessary so that, as thereafter delivered to the purchasers of such Registrable Securities, such amended or supplemental prospectus shall not include 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 in the light of the circumstances then existing.

(f) Cause all such Registrable Securities registered pursuant to this Agreement to be listed on any securities exchange on which any shares of the Common Shares are then listed.

(g) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration.

(h) Enter into and perform its obligations under such customary agreements (including an underwriting agreement in customary form), which may include indemnification provisions in favor of underwriters and other persons in addition to, or in substitution for the provisions of Section 1.9 hereof, and take such other actions as sellers of a majority of shares of such Registrable Securities, a Hedging Counterparty, if any, or the underwriters, if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Securities or any Registrable Class Securities in connection with any Hedging Transaction.

(i) Make available for inspection by any seller of such Registrable Securities covered by such registration statement, by any underwriter participating in any disposition to be effected pursuant to such registration statement, by any Hedging Counterparty, and by any attorney, accountant or other agent retained by any such seller, any such underwriter, or any such Hedging Counterparty all pertinent financial and other records, pertinent corporate documents and properties of the Company, and cause all of the Company's officers, directors and employees to supply all information reasonably requested by any such seller, underwriter, Hedging Counterparty, attorney, accountant or agent in connection with such registration statement.

(j) Obtain for delivery to the Holders of Registrable Securities being registered and to the underwriter or agent, and, in connection with a Hedging Transaction, to any Hedging Counterparty, an opinion or opinions from counsel for the Company in customary form and in form, substance and scope reasonably satisfactory to such Holders, underwriters or agents and their counsel.

(k) Use commercially reasonable efforts to prevent the issuance of any stop order suspending the effectiveness of the registration statement or of any order preventing or suspending the use of any preliminary prospectus relating to such registration statement, and, if any such order is issued, to obtain the withdrawal of any such order at the earliest possible moment.

(l) Respond promptly to any comments received from the SEC and request acceleration of effectiveness promptly after it learns that the Commission will not review the registration statement or after it has satisfied comments received from the SEC.

(m) Promptly notify the Holders of Registrable Securities to be sold and confirm such notice in writing, (i) when a prospectus or any prospectus supplement or post-effective amendment has been filed, and, with respect to a registration statement or any post-effective amendment, when the same has become effective, (ii) of the receipt of any comments from the SEC, (iii) of any request by the SEC or any other federal or state governmental authority for amendments or supplements to a registration statement or related prospectus, (iv) of the issuance by the SEC or any other federal or state governmental authority of any stop order suspending the effectiveness of a registration statement, or of any order preventing or suspending the use of any preliminary prospectus relating to such registration statement, or the initiation of any proceedings for such purpose(s), (v) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, (vi) of the discovery of any event that makes any statement made in such registration statement or related prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in a registration statement, prospectus or any such document so that, in the case of the registration statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, in light of the circumstances under which they were made, and, in the case of the prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading and (vii) of the Company's reasonable determination that a post-effective amendment to a registration statement would be appropriate. In the event a registration statement is interfered with by any event of the kind described in clauses (iv) through (vii) of the first sentence of this Section 1.5(m) for more than twenty (20) days, such registration shall not be deemed "effected" for purposes of Section 1.2(d) or Section 1.4(b).

(n) If requested by the managing underwriter or agent or any Holder of Registrable Securities covered by the registration statement, promptly incorporate in a prospectus supplement or post-effective amendment such

information as the managing underwriter or agent or such Holder reasonably requests to be included therein, including, without limitation, with respect to the number of Registrable Securities being sold by such Holder to such underwriter or agent, the purchase price being paid therefor by such underwriter or agent and with respect to any other terms of the underwritten offering of the Registrable Securities to be sold in such offering; and make all required filings of such prospectus supplement or post-effective amendment as soon as practicable after being notified of the matters incorporated in such prospectus supplement or post-effective amendment.

(o) Cooperate with the Holders of Registrable Securities covered by the registration statement and the managing underwriter or agent, if any, to facilitate the timely preparation and delivery of certificates (not bearing any restrictive legends) representing securities to be sold under the registration statement, and enable such securities to be in such denominations and registered in such names as the managing underwriter or agent, if any, or such Holders may request.

(p) Cooperate with each seller of Registrable Securities, any Hedging Counterparty, and each underwriter or agent participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with the Financial Industry Regulatory Authority.

(q) With respect to each Free Writing Prospectus or other materials to be included in the Disclosure Package, ensure that no Registrable Securities be sold "by means of" (as defined in Rule 159A(b) under the Securities Act) such Free Writing Prospectus or other materials without the prior written consent of the Holders of the Registrable Securities covered by such registration statement, which Free Writing Prospectuses or other materials shall be subject to the review of counsel to such Holders.

(r) Make all required filings of all Free Writing Prospectuses with the Commission.

Each Holder shall be deemed to have agreed by acquisition of the Registrable Securities that, upon receipt of any notice from the Company of the occurrence of any event of the kind described in clauses (iv) through (vii) of subsection (m) of this Section 1.5, such Holder will forthwith discontinue its disposition of the Registrable Securities pursuant to the Registration Statement relating thereto until Holder's receipt of the copies of the supplemented or amended prospectus contemplated by subsection (e) of this Section 1.5 and, if so directed by the Company, will deliver to the Company all copies, other than permanent file copies, then in Holder's possession of the prospectus relating to the Registrable Securities current at the time of receipt of such notice.

#### **1.6. Registration In Connection With Hedging Transactions.**

(a) The Company acknowledges that from time to time a Holder may seek to enter into one or more Hedging Transactions with a Hedging Counterparty. Notwithstanding anything to the contrary provided herein, the Company agrees that, in connection with any proposed Hedging Transaction, if, in the reasonable judgment of counsel to the Holder (after good faith consultation with counsel to the Company), it is necessary or desirable to register under the Securities Act such Hedging Transaction or sales or transfers (whether short or long) of Registrable Class Securities in connection therewith, then the Company shall use its commercially reasonable efforts to take such actions (which may include among other things, the filing of a post-effective amendment to any shelf registration statement to include additional or changed information that is material or is otherwise required to be disclosed, including, without limitation, a description of such Hedging Transaction, the name of the Hedging Counterparty, identification of the Hedging Counterparty or its affiliates as underwriters or potential underwriters, if applicable, or any change to the plan of distribution) as may reasonably be required to register such Hedging Transactions or sales or transfers of Registrable Class Securities in connection therewith under the Securities Act in a manner consistent with the rights and obligations of the Company hereunder with respect to the registration of Registrable Securities.

(b) The Company agrees to include in each prospectus supplement filed in connection with any proposed Hedging Transaction language mutually agreed upon by the Company, the Holder and the Hedging Counterparty describing such Hedging Transaction.



(c) Any information regarding the Hedging Transaction included in a registration statement or prospectus pursuant to this Section 1.6 shall be deemed to be information provided by the Holder selling Registrable Securities pursuant to such registration statement or prospectus for purposes of Section 1.5 of this Agreement.

(d) If in connection with a Hedging Transaction a Hedging Counterparty or any affiliate thereof is (or may be considered) an underwriter or selling securityholder, then it shall be required to provide customary indemnities to the Company regarding itself, the plan of distribution and like matters.

#### **1.7. Furnish Information; Limitation of Obligations.**

It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Agreement with respect to the Registrable Securities of any selling Holder as to which a registration is being effected to furnish, that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as shall be reasonably required to effect the registration of such Holder's Registrable Securities.

#### **1.8. Expenses of Registrations.**

All expenses other than underwriting discounts and commissions incurred in connection with registrations pursuant to this Section 1, including without limitation all registration, filing and qualification fees, printers' and accounting fees and reasonable fees and disbursements of counsel for the Company and one counsel for the participating Holders, shall be borne by the Company; provided, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 1.2 or Section 1.4 as applicable, if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (in which case all participating Holders shall bear all such expenses incurred), unless, in the case of a registration requested under Section 1.2, the Holders of a majority of the Registrable Securities agree to forfeit one demand registration pursuant to Section 1.2.

#### **1.9. Indemnification.**

(a) To the extent permitted by law, the Company will indemnify and hold harmless each Holder, any underwriter (as defined in the Securities Act) for such Holder, their respective affiliates and controlling persons (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, and the partners, officers, directors members, representatives, agents and employees of each Holder, and each such person (collectively, the "Holder Indemnified Parties"), against any losses, claims, damages or liabilities (joint or several) to which they may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively, a "Violation") by the Company: (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including without limitation any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) any untrue statement or alleged untrue statement of a material fact contained in the Disclosure Package or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading in the light of the circumstances under which they were made, or (iv) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law in connection with the offering covered by such registration statement; and the Company will reimburse each such Holder Indemnified Party for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, that the indemnity agreement contained in this Section 1.9(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the written consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable in any such case to any Holder Indemnified Party for any such loss, claim, damage,

liability or action to the extent that it arises out of or is based upon a Violation which occurs in reliance upon and in conformity with written information furnished by such Holder Indemnified Party under an instrument duly executed by any such Holder Indemnified Party expressly for use in connection with such registration by such Holder; provided further, that the foregoing indemnity agreement with respect to any preliminary prospectus shall not inure to the benefit of any Holder Indemnified Party from whom the person asserting any such losses, claims, damages or liabilities purchased shares in the offering, if a copy of the prospectus (as then amended or supplemented if the Company shall have furnished any amendments or supplements thereto) was not sent or given by or on behalf of such Holder Indemnified Party to such person, if required by law so to have been delivered, at or prior to the written confirmation of the sale of the shares to such person, and if the prospectus (as so amended or supplemented) would have cured the defect giving rise to such loss, claim, damage or liability. For purposes of the last proviso to the immediately preceding sentence, the term "prospectus" shall not be deemed to include the documents, if any, incorporated therein by reference, and no person who participates as an underwriter in the offering or sale of Registrable Securities or any other person, if any, who controls such underwriter within the meaning of the Securities Act, shall be obligated to send or give any supplement or amendment to any document incorporated by reference in any preliminary prospectus or the final prospectus to any person other than a person to whom such underwriter had delivered such incorporated document or documents in response to a written request therefor. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such party and shall survive the transfer of such securities.

(b) To the extent permitted by law, each Holder shall, if shares held by such Holder are included in the securities as to which such registration, qualification or compliance is being effected, indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the registration statement, each person, if any, who controls the Company within the meaning of the Securities Act, each underwriter and each other stockholder selling securities under such registration statement against any losses, claims, damages or liabilities (joint or several) to which any of the foregoing persons may become subject under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereto) arise out of or are based upon any Violation, in each case to the extent (and only to the extent) that such Violation occurs in reliance upon and in conformity with written information furnished by such Holder under an instrument duly executed by such Holder expressly for use in connection with such registration; and each Holder shall reimburse any legal or other expenses reasonably incurred by any person intended to be indemnified pursuant to this Section 1.9(b), in connection with investigating or defending any such loss, claim, damage, liability or action if it is judicially determined that there was such violation; provided, that the indemnity agreement contained in this Section 1.9(b) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the written consent of such Holder, which consent shall not be unreasonably withheld; provided further, that the liability of each Holder under this Section 1.9(b) shall be limited to an amount equal to the net proceeds actually received and retained by such Holder in the registered public offering out of which such liability arises, unless such liability arises out of or is based on willful misconduct by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 1.9 of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 1.9, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, that an indemnified party (together with all other indemnified parties which may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action, if materially prejudicial to its ability to defend such action, shall relieve such indemnifying party of any liability to the indemnified party under this

Section 1.9 to the extent so prejudiced, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 1.9.

(d) If the indemnification provided for in this Section 1.9 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any loss, liability, claim, damage or expense referred to therein, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage or expense in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the Violation that resulted in such loss, liability, claim, damage or expense as well as any other relevant equitable considerations; provided, that in no event shall any contribution by a Holder that is a selling party under this Section 1.9(d) exceed the net proceeds from the offering received by such Holder. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control. No indemnifying party, in the defense of any such claim or litigation, shall, except with the consent of each indemnified party, consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

(f) The obligations of the Company and Holders under this Section 1.9 shall survive the completion of any offering of Registrable Securities in a registration statement under this Section 1 and otherwise.

#### **1.10. Rule 144 Reporting.**

With a view to making available to the Holders the benefits of Rule 144 promulgated under the Securities Act and any other rule or regulation of the SEC which may permit the sale of the Registrable Securities to the public without registration or pursuant to a registration on Form S-3, the Company agrees to use commercially reasonable efforts to:

(a) make and keep public information available, as those terms are understood and defined in SEC Rule 144 or any similar or analogous rule promulgated under the Securities Act;

(b) file with the SEC in a timely manner all reports and other documents required of the Company under the Exchange Act; and

(c) so long as a Holder owns any Registrable Securities, furnish to such Holder forthwith upon written request: (i) a written statement by the Company as to its compliance with the reporting requirements of SEC Rule 144 and the Exchange Act; (ii) a copy of the most recent annual or quarterly report of the Company; and (iii) such other reports and documents as a Holder may reasonably request in availing itself of any rule or regulation of the SEC allowing it to sell any such securities without registration.

#### **1.11. Assignment of Registration Rights.**

A Holder may assign any or all of its rights hereunder (but only with all related obligations) to any person or entity to whom the Holder may transfer or assign its Common Shares or Preferred Shares; provided, that: (i) the Company is, within ten (10) days after such transfer, furnished with written notice of the name and address of such transferee or assignee and the securities with respect to which such registration rights are being assigned; and (ii) such transferee or assignee agrees in writing to be bound by and subject to the terms and conditions of this Agreement, including without limitation the terms and conditions of Section 1.13 hereof.

### **1.12. Limitations on Subsequent Registration Rights.**

The Company shall not, without the prior written consent of the Holders of at least a majority of the Registrable Common Securities then outstanding, enter into any agreement with any holder or prospective holder of any securities of the Company that would grant to such holder or prospective holder registration rights superior to or, except with respect to piggyback or incidental registration rights, on parity with those granted under this Section 1.

### **1.13. Lockup.**

(a) Each Holder agrees that it will not offer, sell, contract to sell, pledge or otherwise dispose of, directly or indirectly, any Merger Issuance Shares in any Public Sale, enter into a transaction that would have the same effect, or enter into any Hedging Transaction or other arrangement that transfers, in whole or in part, any of the economic consequences of ownership of the Merger Issuance Shares in a Public Sale, whether any of these transactions are to be settled by delivery of Merger Issuance Shares or other securities, in cash or otherwise, or publicly disclose the intention to make any offer, sale, pledge or disposition, or enter into any Hedging Transaction or other arrangement with respect to any Merger Issuance Shares in any Public Sale during the period from the “Effective Time” (as defined in the Merger Agreement) through the one-year anniversary of the Effective Time (such period, the “Lock-Up Period”); provided, that the restrictions set forth in this Section 1.13(a) shall terminate with respect to 40,000,000 Common Shares six months following the Effective Time with the prior approval of the majority of the independent trust managers of the Board.

(b) The terms of this Section 1.13 shall not, during the Lock-Up Period, restrict any offer, sale, contract to sell, pledge, Hedging Transaction or otherwise disposition of any Merger Issuance Shares in any transaction not directly or indirectly involving a Public Sale; *provided, however*, that in each such case, the transferred Merger Issuance Shares shall be subject to all of the provisions of this Section 1.13 of this Agreement as though the undersigned Holder were still the Holder of such Merger Issuance Shares; and *provided, further*, that the transferee must execute and deliver to the Company an agreement stating that the transferee is receiving and holding such Merger Issuance Shares subject to all of the restrictions set forth in this Section 1.13.

(c) The terms of this Section 1.13 shall not prohibit or restrict any offer, sale, contract to sell or other disposition of (x) 100 Preferred Shares to 100 different Persons and (y) up to an additional 200,000 Preferred Shares to one or more Person(s), but only to the extent necessary to comply with the listing requirements of the national securities exchange upon which the Preferred Shares are listed; provided, however, that in each such case, the transferred Preferred Shares shall be subject to all of the provisions of Section 1.13 of this Agreement as though the undersigned Holder were still the Holder of such Preferred Shares; and provided, further, that the transferee must execute and deliver to the Company an agreement stating that the transferee is receiving and holding such Preferred Shares subject to all of the restrictions set forth in this Section 1.13.

(d) The terms of this Section 1.13 shall not prohibit or restrict: (i) any disclosure by any Holder in a Schedule 13D or 13G under the Exchange Act of (x) its beneficial ownership of any Merger Issuance Shares, (y) any of the transactions contemplated by Section 1.13(c) or (z) its general intent to dispose of any Merger Issuance Shares (which stated intent shall not include any specific plan or expectation to dispose of any Merger Issuance Shares, other than the distribution of such shares to the owners of the Holder), subject to its compliance with this Section 1.13, from time to time; or (ii) any Holder from exercising its rights under this Agreement to require the Company to file a registration statement under the Securities Act to register all or any part of the Merger Issuance Shares for resale at any time after the six month anniversary hereof.

(e) Each Holder agrees that its registration rights relating to the Registrable Securities set forth in this Agreement shall be subject to material compliance with the restrictions set forth in this Section 1.13.

### **1.14. Confidential Information.**

Each Holder of Registrable Securities agrees that any information obtained pursuant to this Agreement which the Company identifies to be proprietary to the Company or otherwise confidential will not be disclosed

without the prior written consent of the Company. Notwithstanding the foregoing, each Holder of Registrable Securities may disclose such information, on a need to know basis, to their employees, accountants or attorneys (so long as each such person to whom confidential information is disclosed agrees to keep such information confidential) or to the extent required by applicable law, rule, regulation or court order. Each Holder of Registrable Securities further acknowledges, understands and agrees that any confidential information will not be utilized in connection with purchases and/or sales of the Company's securities except in compliance with applicable state and federal antifraud statutes.

### **1.15. Termination of Registration Rights.**

No Holder shall be entitled to exercise any right provided for in this Section 1 after such time at which all Registrable Securities held by such Holder (and any affiliate of the Holder or other person with whom such Holder must aggregate sales under Rule 144 of the Securities Act) can be sold without restriction (including volume and manner-of-sale restrictions) on a single day without registration in compliance with Rule 144 of the Securities Act (or any similar provision then in effect) and such Holder has received, upon such Holder's request, an opinion of counsel to the Company to that effect.

## **2. Representations and Warranties of the Company.**

The Company represents and warrants to the Holders as follows:

(a) The Company is duly organized, validly existing and in good standing under the laws of the State of Texas.

(b) The Company has the requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder. The execution and delivery by the Company of this Agreement have been duly authorized and approved by all necessary corporate action on the part of the Company. This Agreement has been duly executed and delivered by the Company and constitutes the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except to the extent that its enforceability may be subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles.

(c) The execution and delivery by the Company of this Agreement and the performance of its obligations hereunder and compliance with the terms hereof do not and will not violate any provision of law, any order of any court or other agency of government, the Company's declaration of trust or any provision of any indenture, agreement or other instrument to which it or any of its properties or assets is bound, and will not conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Company.

## **3. Miscellaneous.**

### **3.1. Effectiveness.**

This Agreement shall become effective as of the Effective Time (as defined in the Merger Agreement).

### **3.2. Successors and Assigns.**

This Agreement will be binding upon and will inure to the benefit of the signatories hereto and their respective successors and permitted assigns (including transferees of any shares of Registrable Securities). Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

### **3.3. Governing Law.**

This Agreement will be governed by and construed in accordance with the internal Laws of the State of Delaware applicable to contracts made and wholly performed within such state, without regard to any applicable conflict of laws principles.

### **3.4. Counterparts.**

This Agreement may be executed in two or more counterparts, all of which will be considered one and the same agreement and will become effective when counterparts have been signed by each of the parties and delivered to the other parties, it being understood that each party need not sign the same counterpart.

### **3.5. Notices.**

All notices required or permitted pursuant to this Agreement will be in writing and will be deemed to be properly given when actually received by the Person entitled to receive the notice at the address set forth on Exhibit A hereto, or at such other address as a party may provide by notice to the other.

### **3.6. Attorneys' Fees.**

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

### **3.7. Amendments and Waivers.**

Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company (with the approval of a majority of the independent managers of the Company's board of trust managers) and the holders of at least a majority of the Registrable Securities then outstanding. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each holder of any Registrable Securities then outstanding, each future holder of all such Registrable Securities and the Company.

### **3.8. Other Agreements.**

Neither the Company nor any of its subsidiaries has entered, as of the date hereof, nor shall the Company or any of its subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof.

### **3.9. Specific Performance.**

The parties hereby acknowledge and agree that the failure of any party to perform its agreements and covenants hereunder, including its failure to take all actions as are necessary on its part to the consummation of the Transactions, will cause irreparable injury to the other parties for which damages, even if available, will not be an adequate remedy. Accordingly, each party hereby consents to the issuance of injunctive relief by any court of competent jurisdiction to compel performance of such party's obligations and to the granting by any court of the remedy of specific performance of its obligations hereunder.

### **3.10. Severability.**

The illegality or partial illegality of any of this Agreement, or any provision hereof, will not affect the validity of the remainder of this Agreement, or any provision hereof, and the illegality or partial illegality of this Agreement will not affect the validity of this Agreement in any jurisdiction in which such determination of illegality or partial illegality has not been made, except in either case to the extent such illegality or partial illegality causes this Agreement to no longer contain all of the material provisions reasonably expected by the parties to be contained therein.

### **3.11. Rules of Construction.**

(a) When a reference is made in this Agreement to Articles, Sections, Exhibits or Schedules, such reference will be to an Article or Section or Exhibit or Schedule to this Agreement unless otherwise indicated.

Whenever the words “include,” “includes” or “including” are used in this Agreement, they will be deemed to be followed by the words “without limitation.” Unless the context otherwise requires, (i) “or” is disjunctive but not necessarily exclusive, (ii) words in the singular include the plural and vice versa, and (iii) the use in this Agreement of a pronoun in reference to a party hereto includes the masculine, feminine or neuter, as the context may require. This Agreement will not be interpreted or construed to require any Person to take any action, or fail to take any action, that would violate any applicable Law.

(b) The parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

**3.12. Entire Agreement.**

This Agreement constitutes the entire agreement and all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, each of the Company, CIM and CIM GP have caused this Registration Rights and Lockup Agreement to be signed by its officer thereunto duly authorized, all as of the date first written above.

**PMC COMMERCIAL TRUST**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CIM URBAN REIT, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CIM URBAN PARTNERS GP, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



Addresses For Notices

PMC COMMERCIAL TRUST

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CIM URBAN REIT, LLC

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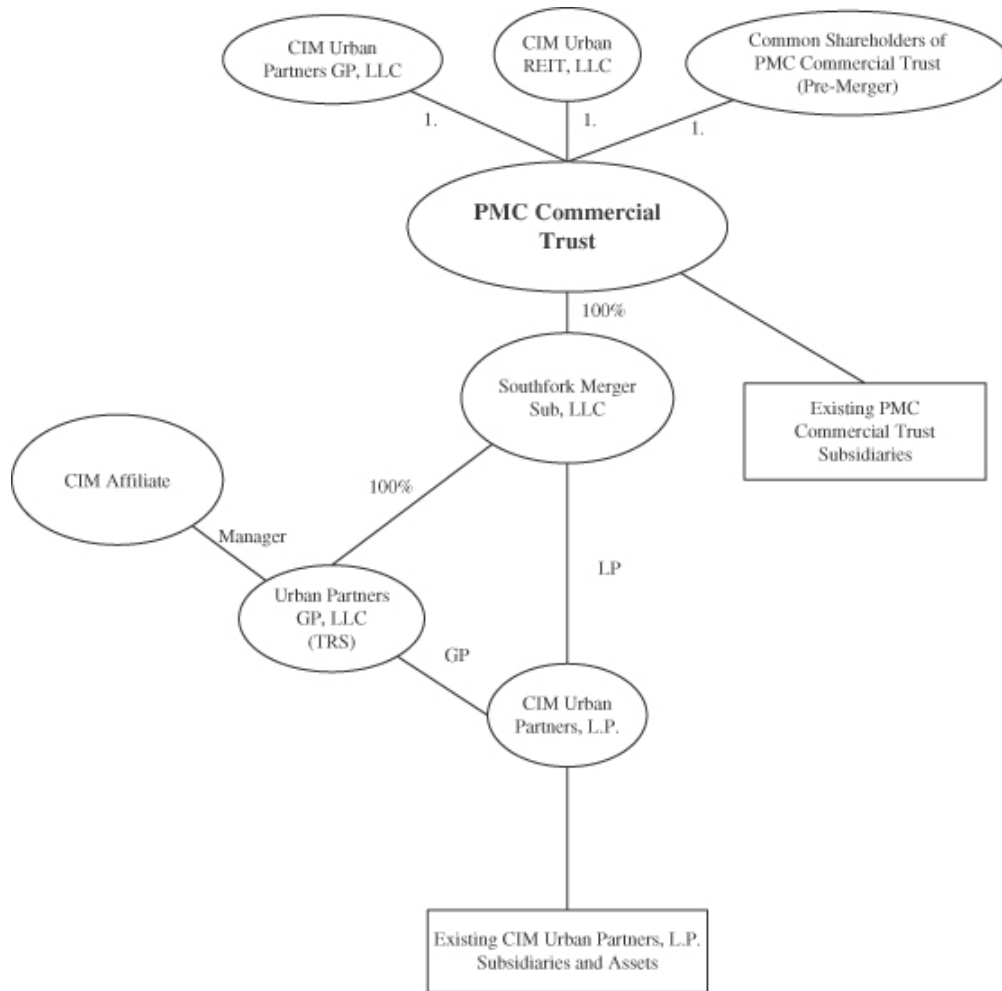
CIM URBAN PARTNERS GP, LLC

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Chart of Structure of PMC Commercial Trust and its Subsidiaries after the Merger



- Following the Merger, CIM Urban Partners GP, LLC and CIM Urban REIT, LLC will own PMC Commercial Trust Common Shares and PMC Commercial Trust Preferred Shares representing approximately 97.8% of the total outstanding PMC Commercial Trust Common Shares (assuming conversion of the PMC Commercial Trust Preferred Shares). The pre-Merger Common Shareholders of PMC Commercial Trust will own the remaining 2.2% of the total outstanding PMC Commercial Trust Common Shares (assuming conversion of the PMC Commercial Trust Preferred Shares).

**FOR IMMEDIATE PRESS RELEASE**

PMC Commercial Trust  
17950 Preston Road, Suite 600  
Dallas, TX 75252

**PMC Commercial Trust Contact**  
(972) 349-3235  
[www.pmctrust.com](http://www.pmctrust.com)

**CIM Investor Relations Contact: Mary C. Jensen**  
(323) 305-7746; [mjensen@cimgroup.com](mailto:mjensen@cimgroup.com)

**CIM Media Contact: Mendel Communications**  
(212) 397-1030; [bill@mendelcommunications.com](mailto:bill@mendelcommunications.com)

**PMC Commercial Trust Enters Into Merger Agreement with CIM Urban REIT, LLC**

*Existing PMC Shareholders to Receive A Special Cash Dividend of \$5.50 Per Share*

DALLAS, TX—July 8, 2013—PMC Commercial Trust (**NYSE MKT: PCC**), (“PMC Commercial”), a real estate investment trust (“REIT”) that specializes in real estate financing primarily through first lien collateralized loans to small businesses, announced today that it has entered into a definitive merger agreement with CIM Urban REIT, LLC and subsidiaries of the respective parties. CIM Urban REIT is a private commercial REIT with Class A commercial real estate assets located in premier urban markets throughout the United States. CIM Urban REIT is managed by a subsidiary of CIM Group, LLC, a real estate and infrastructure investment firm with approximately \$12 billion in assets under management. The merger and other transactions were unanimously approved by both PMC Commercial’s Board of Trust Managers and CIM Urban REIT’s Director.

Pursuant to the merger agreement, CIM Urban REIT and its affiliates will receive approximately 22.0 million newly-issued PMC Commercial Common Shares of beneficial interest and approximately 65.0 million newly-issued PMC Commercial Preferred Shares. Each Preferred Share will be convertible into seven Common Shares, resulting in the issuance of approximately 477.2 million Common Shares in the merger and other transactions. This will represent approximately 97.8% of PMC Commercial’s outstanding Common Shares.

All PMC Commercial Common Shares that are outstanding immediately prior to the transactions will remain outstanding following the transactions. In addition, PMC Commercial shareholders of record at the close of the business day prior to the closing of the transactions will receive a special cash dividend of \$5.50 per common share, to be paid shortly after closing. The special dividend will be funded from existing cash and credit lines. Based on the agreed equity value of CIM Urban REIT’s contributed portfolio of \$2.386 billion and the issuance of 477.2 million PMC Commercial Common Shares, the merged company (including subsidiaries) will have an implied valuation of \$2.439 billion. The merged company is initially expected to pay a quarterly cash dividend of \$0.175 per common share, which will provide a 3.5% annualized yield on its pro forma equity market capitalization.

After the closing of the merger and other transactions, it is expected that the merged company will primarily invest in substantially stabilized real estate and real estate-related assets in high density, high barrier-to-entry urban markets throughout the United States. CIM Group will manage most aspects of

the merged company's business and it is anticipated that the merged company will be the principal investment vehicle through which CIM Group will place substantially stabilized real estate investments. As a result of CIM Group's urban market investment and operating experience developed over the last 19 years, the merged company will benefit from investment opportunities in a diverse range of stabilized urban properties (and to a lesser extent loans secured by such properties), including office, retail, hotel, multifamily apartments, signage and parking. Over time, the merged company may expand into new real estate-related activities, supported by CIM Group's broad real estate investing capabilities. In addition, the merged company will continue to originate loans to small businesses collateralized by first liens on the real estate of the related business, in accordance with the current investment strategy of PMC Commercial and its subsidiaries.

"This transaction offers an efficient program to provide our institutional partners with liquidity over time while maintaining their ability to hold their investment and continue to benefit from expected quarterly dividends and capital appreciation from the portfolio of exceptionally attractive properties assembled by CIM Urban REIT over the last eight years." said Richard S. Ressler, Co-Founder and Principal of CIM Group. "The merged company will be a well-capitalized owner of top-tier real estate assets located in some of the best performing real estate markets in North America. Additionally, we believe that the merged company will be an attractive investment for a broad array of investors, including some that have been precluded from investing in CIM Urban REIT because of restrictions against private investments or because of the large minimum investment required to participate in CIM Group's private institutionally-focused funds."

"The Board of Trust Managers and the executive officers of PMC Commercial seek to drive long-term growth and maximize value for our shareholders," said Jan F. Salit, President and Chief Executive Officer of PMC Commercial. "This transaction demonstrates our ability to set strategic growth initiatives and execute those initiatives swiftly. We believe this transaction will allow us to combine our lending expertise with CIM Group's real estate expertise, as well as offer efficiencies of scale that will benefit all of our shareholders."

#### **TIMING AND OTHER MATTERS**

The merger and other transactions are subject to certain customary closing conditions, including the approval of PMC Commercial's shareholders. PMC Commercial expects to hold a special meeting of its shareholders to consider and vote on the proposed transactions contemplated by the merger agreement. The parties expect the transactions to be completed during the fourth quarter of 2013.

Under the merger agreement, PMC Commercial has the right to solicit competing proposals from third parties during the 30-day period ending August 6, 2013. PMC Commercial does not intend to disclose developments regarding this process, unless PMC Commercial's Board of Trust Managers reaches a decision regarding any superior proposals that may be made. There is no assurance that this process will result in a superior proposal.

Sandler O'Neill + Partners, L.P. is acting as financial advisor (and rendered a fairness opinion in connection with the transactions) and Locke Lord LLP is acting as legal advisor to PMC Commercial. DLA Piper LLP is acting as legal advisor to CIM Group.

## **ABOUT PMC COMMERCIAL**

PMC Commercial is a REIT organized in 1993 that primarily originates loans to small businesses collateralized by first liens on the real estate of the related business, predominantly (94% at March 31, 2013) in the hospitality industry. Its operations are located in Dallas, Texas and include originating, servicing and selling the government guaranteed portions of certain loans. PMC Commercial originates loans, either directly or through its wholly-owned lending subsidiaries, as follows: First Western SBLC, Inc. ("First Western"), PMC Investment Corporation ("PMCIC") and Western Financial Capital Corporation ("Western Financial"). First Western is licensed as a small business lending company ("SBLC") that originates loans through the Small Business Administration's ("SBA") 7(a) Guaranteed Loan Program ("SBA 7(a) Program"). PMCIC and Western Financial are licensed small business investment companies ("SBICs").

## **ABOUT CIM URBAN REIT, LLC**

CIM Urban REIT, LLC, through its wholly owned subsidiary, CIM Urban Partners, LP, invests primarily in substantially stabilized real estate and real estate-related assets in high density, high barrier-to-entry urban markets throughout North America that CIM Group has targeted for opportunistic investments. CIM invests in these properties anticipating that they will experience above-average rent growth compared to both national averages and their neighboring central business districts.

## **ABOUT CIM GROUP**

CIM Group is a leading real estate and infrastructure investment firm that since 1994 has systematically and successfully invested in dynamic and densely populated communities throughout North America. CIM Group draws on its experienced team of real estate, investment and finance professionals to identify and pursue investment opportunities in three primary strategic categories: repositioning and development projects in established and emerging urban areas; well-positioned operating properties in transitional and established districts; and infrastructure. CIM manages three distinct portfolios, including opportunistic, stabilized and infrastructure funds, each of which are diversified by geography and type of property within that risk profile. These portfolios are supported by a full array of expertise in real estate-related activities. Headquartered in Los Angeles, CIM has offices in New York, the San Francisco Bay Area and the Washington, D.C. Metropolitan Area. For more information, please visit [www.cimgroup.com](http://www.cimgroup.com).

## **IMPORTANT ADDITIONAL INFORMATION AND WHERE TO FIND IT**

This communication does not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval. PMC Commercial plans to file with the U.S. Securities and Exchange Commission (SEC) a Registration Statement on Form S-4 and file with the SEC and mail to its shareholders a Proxy Statement/Prospectus in connection with the merger and other transactions. The Registration Statement and the Proxy Statement/Prospectus will contain important information about PMC Commercial, CIM Urban REIT and their respective affiliates, the merger and other transactions, and related matters. Investors and security holders are urged to read the Registration Statement and the Proxy Statement/Prospectus carefully when they are available.

Investors and security holders will be able to obtain free copies of the Registration Statement and the Proxy Statement/Prospectus and other documents filed with the SEC by PMC Commercial through the web site maintained by the SEC at [www.sec.gov](http://www.sec.gov) and that maintained by PMC Commercial Trust at [www.pmctrust.com](http://www.pmctrust.com).

In addition, investors and security holders will be able to obtain free copies of the Registration Statement and the Proxy Statement/Prospectus from PMC Commercial by contacting PMC Commercial Trust, Attn: Investor Relations, 17950 Preston Road, Suite 600, Dallas, Texas 75252.

PMC Commercial and its trust managers and executive officers may be deemed to be participants in the solicitation of proxies in respect of the merger and other transactions contemplated by the merger agreement. Information regarding PMC Commercial's trust managers and executive officers is contained in PMC Commercial's Annual Report on Form 10-K for the year ended December 31, 2012, and in its definitive proxy statement dated April 29, 2013, which are filed with the SEC. As of April 15, 2013, PMC Commercial's trust managers and executive officers beneficially owned as a group approximately 499,243 Common Shares, or 4.7% of PMC Commercial's Common Shares. Additional information regarding the interests of such potential participants will be included in the Proxy Statement/Prospectus and other relevant documents filed with the SEC in connection with the proposed merger and other transactions if and when they become available.

#### **FORWARD-LOOKING STATEMENTS**

The information set forth herein (including information included or referenced herein) contains "forward-looking statements" (as defined in Section 21E of the Securities Exchange Act of 1934, as amended), which reflect PMC Commercial's and CIM Urban REIT's expectations regarding future events. The forward-looking statements involve a number of risks, uncertainties and other factors that could cause actual results to differ materially from those contained in the forward-looking statements. Such forward-looking statements include, but are not limited to, whether and when the merger and other transactions contemplated by the merger agreement will be consummated, PMC Commercial's and CIM Group's plans for the merged company, market and other expectations, objectives, intentions, as well as any expectations with respect to the merged company, including regarding valuations, future dividends, estimates of growth, and other statements that are not historical facts.

The following additional factors, among others, could cause actual results to differ from those set forth in the forward-looking statements: (1) the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement; (2) the inability to complete the proposed merger and other transactions due to the failure to obtain PMC Commercial shareholder approval for the transactions or the failure to satisfy other conditions to completion of the transactions, including that a governmental entity may prohibit, delay or refuse to grant approval for the consummation of the transactions; (3) risks related to disruption of management's attention from ongoing business operations due to the merger and other transactions; (4) the effect of the announcement of the proposed merger and other transactions on PMC Commercial's or CIM Urban REIT's relationships with its customers, investors, tenants, lenders, operating results and business generally; (5) risks related to substantial expenditures with respect to the merger and other transactions, which may or may not be reimbursable in the event of the termination of the Merger Agreement; (6) the outcome of any legal proceedings relating to the merger and other transactions; and (7) risks to consummation of the merger and other transactions, including the risk that the merger and other transactions will not be consummated within the expected time period or at all. Additional factors that may affect future results are contained in PMC Commercial's filings with the SEC, which are available at the SEC's website at [www.sec.gov](http://www.sec.gov) and on PMC Commercial's website at [www.pmctrust.com](http://www.pmctrust.com), including those set forth in PMC Commercial's Annual Report on Form 10-K for the year ended December 31, 2012. PMC Commercial and CIM Group disclaim any obligation to update and revise statements contained in this press release or the materials referenced herein based on new information or otherwise.