

THIS INSTRUMENT
PREPARED BY:

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Sixteenth Floor
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THIS INSTRUMENT IS EXECUTED
AND DELIVERED PURSUANT TO
A CONFIRMED PLAN OF
BANKRUPTCY UNDER 11 U.S.C.
§ 1129 IN A CASE STYLED IN RE
KINDER-CARE LEARNING
CENTERS, INC., F/K/A KINDER
SUB, INC., CHAPTER 11 CASE
NO. 92-04393, FILED IN THE
UNITED STATES BANKRUPTCY
COURT, MIDDLE DISTRICT OF
ALABAMA, NORTHERN DIVISION

MORTGAGE,
ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT
(Alabama)

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT, dated March 11, 1993, effective as of March 31, 1993 (the "Effective Date"), between KINDERCARE LEARNING CENTERS, INC., a Delaware corporation (formerly known as Kinder-Care Learning Centers, Inc., and hereinafter referred to as "Borrower"), and TORONTO DOMINION (TEXAS), INC., a Georgia corporation, in its capacity as collateral agent ("Collateral Agent") for the Agent, the Tranche A Lenders, the Trustee, the Tranche B Noteholders, the IRB LC Bank and the Insurance LC Bank (as such capitalized terms are hereinafter defined, being sometimes hereinafter collectively referred to as the "Secured Creditors");

WITNESSETH:

WHEREAS, as provided by the terms of the plan of reorganization (the "Plan of Reorganization") confirmed by the United States Bankruptcy Court for the Middle District of Alabama, Northern Division, in connection with the voluntary Chapter 11 bankruptcy proceeding relating to Borrower heretofore pending in said court (the "Bankruptcy Proceeding"), Borrower has entered into a certain Credit Agreement dated the Effective Date (the "Credit Agreement") by and among Borrower, the financial institutions signatory thereto (together with all successor holders of any Tranche A Note, collectively, the "Tranche A Lenders") and Toronto Dominion (Texas), Inc., as agent for the Tranche A Lenders (the "Agent"), pursuant to which the initial Tranche A Lenders have accepted the claims evidenced by the Credit Agreement and by the promissory notes issued by Borrower pursuant thereto in the original aggregate principal amount of \$88,016,250 (the "Tranche A Notes") in lieu of certain pre-existing claims of the initial Tranche A Lenders against Borrower being cancelled and discharged in connection with the Bankruptcy Proceeding; and

WHEREAS, as provided by the terms of the Plan of Reorganization, Borrower and AmSouth Bank N.A., as trustee (the "Trustee"), have entered into a certain Indenture dated the Effective Date (the "Indenture"), pursuant to which Borrower has issued up to \$84,855,000 in aggregate principal amount of its 12% Senior Secured Notes due 2002 (the "Tranche B Notes") to the initial holders thereof (collectively, the "Tranche B Noteholders") in lieu of certain pre-existing claims of the initial Tranche B Noteholders against Borrower being cancelled and discharged in connection with the Bankruptcy Proceeding; and

WHEREAS, The Bank of New York, formerly known as Irving Trust Company (the "IRB LC Bank"), has heretofore issued certain irrevocable letters of credit in the aggregate stated amount of \$34,648,813 (the "IRB Letters of Credit") for the account of Borrower pursuant to those certain Master Reimbursement Agreements dated as of December 1, 1988, May 1, 1989, June 1, 1989, August 1, 1989, and September 1, 1989 (the "IRB LC Reimbursement Agreements"), between Borrower and the IRB LC Bank (Borrower's reimbursement and other payment obligations under which are hereinafter referred to as the "IRB LC Reimbursement Obligations"); and

WHEREAS, Banque Francaise du Commerce Ext-rieur, acting through its New York Branch (the "Insurance LC Bank"), has heretofore issued its irrevocable letters of credit numbered SB-6959, SB-6960, SB-6961 and SB-6962 in the aggregate stated amount of \$5,580,376 (the "Insurance Letters of Credit") for the account of Borrower in favor of Planet Insurance Company and/or Reliance Insurance Company pursuant to that certain Continuing Reimbursement Agreement for Standby Letters of Credit dated as of January 3, 1990 (the "Insurance LC Reimbursement Agreement"), between Borrower and the Insurance LC Bank, to secure certain workers' compensation and other insurance obligations of Borrower (Borrower's reimbursement and other payment obligations under which are hereinafter referred to as the "Insurance LC Reimbursement Obligations"); and

WHEREAS, as part of the financial restructuring implemented pursuant to the Plan of Reorganization (the "Restructuring"), Borrower has agreed to collateralize (a) its obligations under the Credit Agreement and the Tranche A Notes (the "Tranche A Obligations"); (b) its obligations under the Indenture and the Tranche B Notes (the "Tranche B Obligations"); (c) the IRB LC Reimbursement Obligations; (d) the Insurance LC Reimbursement Obligations; and (e) its obligations under the other Secured Debt Documents to which it is a party; and

WHEREAS, to induce the initial Tranche A Lenders, the initial Tranche B Noteholders, the IRB LC Bank and the Insurance LC Bank to support the Plan of Reorganization and consummate the Restructuring, Borrower has agreed to execute and deliver this Instrument to secure the Secured Obligations (as hereinafter defined);

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SHELBY COUNTY JUDGE OF PROBATE
010 MCD 30.00

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower has irrevocably granted, bargained, sold, conveyed, aliened, remised, released, transferred, mortgaged and confirmed, and by these presents does irrevocably grant, bargain, sell, convey, alien, remise release, transfer, mortgage and confirm unto Collateral Agent, its successors and assigns, the following described property:

ALL THAT PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF (the "Real Property");

TOGETHER WITH, all leasehold estate, right, title and interest of Borrower in and to all leases or subleases covering the Real Property or any portion thereof, now or hereafter existing or entered into, and all right, title and interest of Borrower thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

TOGETHER WITH, all right, title and interest of Borrower in and to all options to purchase or lease the Real Property or any portion thereof or interest therein, and any greater estate in the Real Property now owned or hereafter acquired;

TOGETHER WITH, all interests, estate or other claims, both in law and in equity, which Borrower now has or may hereafter acquire in the Real Property;

TOGETHER WITH, all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH, all right, title and interest of Borrower, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, opened or proposed, adjoining the Real Property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Real Property;

TOGETHER WITH, all buildings, improvements and tenements now or hereafter erected on the Real Property (collectively, the "Improvements"), and all rents (subject, however, to the assignment of rents to Collateral Agent herein), and to the extent Borrower has an interest therein, all issues, royalties, mineral, oil and gas rights and profits, water, water rights and water stock appurtenant to the Real Property (collectively, the "Rents"), and all right, title and interest of Borrower in and to all fixtures, machinery, equipment, supplies, engines, boilers, incinerators, building materials, appliances, goods and personal property of every nature whatsoever now or hereafter located in or on, or used or intended to be used in connection with the Real Property (collectively, the "Personal Property"), including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, panelling, rugs, attached floor coverings, furniture, pictures, antennas, plants, playground equipment, books, audio-visual equipment, video camera recorders, all of which, including replacements and additions thereto, shall be deemed to be and remain part of the Real Property securing this Instrument;

TOGETHER WITH, all the estate, right, title, interest and other claim or demand, including claims or demands with respect to the proceeds of insurance which Borrower now has or hereafter may acquire in the Real Property, Improvements, and Personal Property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Real Property and Improvements, including without limitation any awards resulting from a change of grade of streets and awards for severance damages;

TOGETHER WITH, to the full extent assignable, all contracts and agreements between Borrower and others for the sale, design, construction, inspection, use, operation, maintenance and ownership of the Real Property and Improvements, and, to the full extent assignable, all permits and licenses for the construction, utilization and operation of the Real Property and Improvements, including without limitation, all building permits, variances and special use permits, agreements with and letters of assurance and availability from providers of utilities, curb cut and other access permits, reports of soils exploration and testing, environmental audits, structural reports, agreements with construction contractors, agreements with architects, and plans and specifications for the Real Property and Improvements;

TOGETHER WITH, to the full extent assignable, all of Borrower's right, title and interest in and to tradenames, trademarks, service marks, logos and goodwill now or hereafter used, reserved, or otherwise related to the Real Property, Improvements, or Personal Property; and

TO HAVE AND TO HOLD all of the aforesaid Real Property, Improvements, Rents, Personal Property, property rights, contract rights, estates, interests, title and claims (all of which are collectively referred to herein as the "Property") to the use, benefit and behoof of Collateral Agent, its successors and assigns, for the benefit of the Secured Creditors, forever, in fee simple (unless otherwise specifically described in Exhibit "A" attached hereto).

Borrower represents and warrants that Borrower has legal title to the Property and has the right to grant, convey and assign the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any easements, restrictions, reservations, and other matters heretofore recorded in the records in the county in which the Real Property is located and the Permitted Liens (as that term is defined in the Credit Agreement).

All capitalized terms in this Instrument which are not defined in this Instrument shall have the meaning ascribed to them in that certain Intercreditor and Collateral Trust Agreement dated the Effective Date among Borrower, KC Development Corp., a Delaware corporation, Mini-Skools Limited,

a Canadian corporation, the Agent, the Trustee, the IRB LC Bank, the Insurance LC Bank and Collateral Agent (the "Intercreditor Agreement") (such terms appearing herein in bold type, together with captions to paragraphs herein, for convenience). All references in this Instrument to any document or instrument shall be deemed to include all modifications, amendments, supplements, extensions and renewals, to the extent provided in the Intercreditor Agreement.

This Instrument secures the following (collectively, the "Secured Obligations"):

- (a) all obligations of Borrower in respect of:
 - (i) the principal of, premium, if any, fees and interest on or in respect of the Tranche A Notes (having an aggregate original principal balance of Eighty-Eight Million Sixteen Thousand Two Hundred Fifty and No/100 Dollars (\$88,016,250.00) and a final maturity of June 30, 2000) and the Credit Agreement;
 - (ii) the principal of, premium, if any, fees and interest on or in respect of the Tranche B Notes (having an aggregate original principal balance of Eighty-Four Million Eight Hundred Fifty-Five Thousand and No/100 Dollars (\$84,855,000.00) and a final maturity of December 31, 2002) and the Indenture;
 - (iii) the IRB LC Reimbursement Obligations relative to the IRB Letters of Credit which have an aggregate stated amount of Thirty-Four Million Six Hundred Forty-Eight Thousand Eight Hundred Thirteen and No/100 Dollars (\$34,648,813.00) as of the date hereof;
 - (iv) the Insurance LC Reimbursement Obligations, relative to the Insurance Letters of Credit which have an aggregate stated amount of Five Million Five Hundred Eighty Thousand Three Hundred Seventy-Six and No/100 Dollars (\$5,580,376.00) as of the date hereof;
 - (v) any and all other amounts payable by Borrower to the Secured Creditors, or any of them, from time to time under the **Secured Debt Documents**, including, without limitation, amounts in respect of capital adequacy requirements and the breakage of long-term fixed rate contracts under the Credit Agreement; and
- (b) with respect to the obligations under paragraph (a) immediately herein preceding, other costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) of collection, commissions, expenses, charges, reimbursement obligations, indemnification obligations, reasonable fees and expenses due and payable to Collateral Agent or any Secured Creditor and all other liabilities due or owing to, or observable or performable in favor or for the benefit of, Collateral Agent or any Secured Creditor; and
- (c) upon the delivery by the Escrow Agent to the IRB LC Bank of any Tranche C Notes, the indebtedness evidenced by such Tranche C Notes, subject to the provisions of Section 2.2(i) of the Intercreditor Agreement;

in each case whether such obligations and liabilities are absolute or contingent, due or not due, liquidated or unliquidated, arising under or in connection with the **Secured Debt Documents** or any of them.

PROVIDED ALWAYS, that if Borrower shall pay and perform to Collateral Agent and the Secured Creditors all Secured Obligations at all times and in the manner stipulated in the Intercreditor Agreement and **Secured Debt Documents**, including any renewals, extensions, modifications or amendments thereof, then this Instrument shall cease and be void, and shall be of no further force and effect.

Covenants and Agreements. Borrower and Collateral Agent covenant and agree as follows:

1. **Payment and Performance of Secured Obligations.** Borrower shall promptly pay when due the Secured Obligations. Borrower shall promptly and fully keep, perform and comply with all terms, provisions, covenants and conditions imposed upon Borrower under the **Secured Debt Documents**.
2. **Taxes, Insurance and Other Charges.** Prior to delinquency Borrower shall pay all Impositions. As used herein, "Impositions" shall mean:
 - (a) the water and sewer charges and taxes and assessments that may be levied, assessed or imposed on the Property, (b) the premium installments for insurance for the Property as Collateral Agent may require under the Intercreditor Agreement, and (c) such other charges, assessments, levies and taxes, general and specific, or ordinary and extraordinary, that may from time to time be assessed, levied or imposed with respect to the Property.

If at any time after the date hereof there shall be assessed or imposed a license fee, tax or assessment imposed on this Instrument or Collateral Agent and measured by or based in whole or in part upon the amount of the Secured Obligations, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined herein, and Borrower shall pay and discharge the same as herein provided with respect to the payment of Impositions. Anything to the contrary herein notwithstanding, Borrower shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Collateral Agent or on the Secured Obligations.

3. **Insurance.** Borrower covenants and agrees to provide, maintain and keep in force, at all times, the policies of insurance required by the Intercreditor Agreement with respect to the Property. All insurance proceeds in connection with a casualty to the Property shall be applied in accordance with the provisions of the Intercreditor Agreement.
4. **Preservation and Maintenance of Property.** Borrower covenants and agrees to preserve and maintain the Property in accordance with the provisions of the Intercreditor Agreement and the Credit Agreement.
5. **Protection of Collateral Agent's Security.** If Borrower fails to fully and faithfully perform its obligations under this Instrument, the Credit Agreement or the Intercreditor Agreement with respect to the Property, or if any action or proceeding is commenced that affects the Property, title to the Property or the interest of Collateral Agent in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Collateral Agent may, but shall not be obligated to, protect, preserve and maintain the Property and make such appearances, advance disbursements of such sums and take such action on behalf of Borrower as Collateral Agent deems necessary to protect Collateral Agent's interests. Any expenditure of monies by Collateral Agent in connection with the foregoing shall be secured by this Instrument, be immediately due and payable and bear interest at the Delinquency Rate as of the date of the advancement.
6. **Condemnation.** In the event of any condemnation or other taking by eminent domain of the Property or any portion thereof, such condemnation shall be prosecuted and condemnation proceeds applied as set forth in the Intercreditor Agreement.
7. **Borrower and Lien not Released.** Collateral Agent and the Secured Creditors, or any of them, may, without giving notice to any junior lienholder, guarantor, or any other person or entity liable for the Secured Obligations, or any portion thereof, (a) extend the time for payment of all or part of the Secured Obligations secured by this Instrument, (b) reduce the payments on the Secured Obligations, (c) release anyone liable on any of the Secured Obligations, (d) accept a renewal note or notes for the Secured Obligations, (e) modify the terms of payment of the Secured Obligations, (f) release from the lien and interest of this Instrument any part of the Property, (g) take or release other or additional security, (h) reconvey any part of the Property, (i) consent to the granting of any easement, (j) join in any extension or subordination agreement, (k) agree in writing with Borrower to modify the rate of interest, the period of amortization, or the amount of the periodic installments payable under the Secured Debt Documents, (l) extend the maturity or alter any of the terms of any such obligation, (m) grant other indulgences, (n) make compromises or other arrangements with debtors in relation thereto, or (o) advance additional funds to protect the security hereof and pay or discharge the obligations of Borrower hereunder or under the Secured Debt Documents, and all amounts so advanced, with interest thereon at the Delinquency Rate, shall be secured hereby. Actions taken by Collateral Agent under this paragraph shall not affect the obligation of Borrower to pay the Secured Obligations. Furthermore, actions taken by Collateral Agent shall not affect any guaranty for payment of the Secured Obligations, or Collateral Agent's lien and interest in and to the Property or any portion thereof not heretofore released as security for the full amount of all unpaid Secured Obligations.
8. **Forbearance not a Waiver.** Any forbearance by Collateral Agent in exercising any right or remedy under this Instrument or permitted by law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Collateral Agent of payment of any sum secured by this Instrument after the due date shall not be a waiver of Collateral Agent's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment.
9. **Uniform Commercial Code Security Agreement.** This Instrument is intended to be a security agreement under the Uniform Commercial Code (adopted in the jurisdiction in which the Property is located) for any of the items hereinbefore specified as part of the Property that, as a matter of law, may be subject to a security interest under the aforesaid Uniform Commercial Code. Borrower grants Collateral Agent a security interest in these items. Borrower agrees that Collateral Agent may file this Instrument in the real estate records or other appropriate index as a financing statement for any of the items specified above as a part of the Property. Any copy of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. Without the prior written consent of Collateral Agent, except as otherwise provided in the Intercreditor Agreement and the Credit Agreement, Borrower shall not create under the Uniform Commercial Code any other security interests in these items, including replacements and additions. Upon the occurrence of any Event of Default (as defined in Section 11 hereof), Collateral Agent shall have the remedies of a secured party under the Uniform Commercial Code and also may invoke the remedies otherwise provided in this Instrument. In exercising its remedies, Collateral Agent may proceed against the items of Real Property and any items of Personal Property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Collateral Agent's remedies under the Uniform Commercial Code and the remedies otherwise provided in this Instrument.
10. **Remedies Cumulative.** To the full extent permitted by applicable law, each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument, the Secured Debt Documents, or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.
11. **Events of Default; Acceleration.** An Event of Default (as that term is defined in the Intercreditor Agreement), including, without limitation, a Transfer of the Property, or any portion thereof or interest therein, except as otherwise permitted in the Intercreditor Agreement and the Secured Debt Documents, shall constitute an "Event of Default" under this Instrument.

The Secured Obligations may be declared immediately due and payable upon the occurrence of an Event of Default under this Instrument, in accordance with, and subject to, the provisions of the Secured Debt Documents and the Intercreditor Agreement. Collateral Agent also

may invoke any remedies permitted by this Instrument in accordance with, and subject to, the provisions of the Intercreditor Agreement. Any attorneys' fees and other expenses incurred by Collateral Agent in connection with this Instrument shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 5 herein.

12. **Notices.**

- (a) All notices and other communications under this Instrument shall be in writing and shall be deemed to have been given three (3) days after deposit in the mail, designated as certified mail, return receipt requested, postage prepaid, or one (1) Business Day after being entrusted to a reputable commercial overnight delivery service, or when delivered to the telegraph office or sent out by telecopy addressed to the party to which such notice is directed at the following address:

If to Borrower:

KinderCare Learning Centers, Inc.
2400 Presidents Drive
Montgomery, Alabama 36116
Attn: Mr. Tull N. Gearreald, Jr.,
CEO, and
Rebecca Bryan, Esq.,
General Counsel
Telecopy: (205) 271-1210 (Mr. Gearreald)
(205) 270-0080 (Ms. Bryan)

with a copy to:

Alston & Bird
One Atlantic Center, 42nd Floor
1201 West Peachtree Street
Atlanta, Georgia 30309
Attn: John C. Weitnauer, Jr., Esq.
Telecopy: (404) 881-7777

If to Collateral Agent:

Toronto Dominion (Texas), Inc.
909 Fannin, Suite 1700
Houston, Texas 77010
Attn: Ms. Martha L. Garipey,
Manager, Agency
Telecopy: (713) 951-9921

with a copy to:

Powell, Goldstein, Frazer & Murphy
Sixteenth Floor
191 Peachtree Street, N.E.
Atlanta, Georgia 30303
Attn: Robert C. Lewinson, Esq.
Telecopy: (404) 572-6999

and with a copy to:

The Toronto-Dominion Bank
USA Division
31 West 52nd Street
New York, New York 10019-6101
Attn: Credit Restructuring
Telecopy: (212) 262-1925

- (b) Any party hereto may change the address to which notices shall be directed hereunder by giving ten (10) days prior written notice of such change to the other party.

13. **Successors and Assigns Bound; Agents; Captions; Time of Essence.** The provisions of this Instrument shall be binding upon, and inure to the benefit of, Borrower and Collateral Agent and their respective successors and permitted assigns. In exercising any rights or taking any actions under this Instrument, Collateral Agent may act through its employees, agents or independent contractors. The captions and headings of the paragraphs of this Instrument are for reference and convenience only and are not to be used to limit, interpret or define its provisions. Time is of the essence with respect to each and every covenant, agreement, obligation and provision within this Instrument.

14. **Governing Law; Severability.** THIS INSTRUMENT SHALL BE GOVERNED, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, BY THE LAWS OF THE STATE OF NEW YORK; PROVIDED, HOWEVER, THAT WITH RESPECT TO THE CREATION, PERFECTION AND PRIORITY OF THE LIEN AND INTEREST GRANTED HEREIN AND ENFORCEMENT OF THE FORECLOSURE AND RECEIVERSHIP REMEDIES HEREIN, THIS INSTRUMENT SHALL BE GOVERNED BY THE LAWS OF THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED.

In the event that any provision of this Instrument conflicts with applicable law, such conflict shall not affect other provisions of this Instrument which can be given effect without the conflicting provisions. The provisions of this Instrument are declared to be severable.

15. **Waiver of Marshalling and Certain Other Laws.** Borrower waives, to the full extent that it may lawfully so do, the benefit of certain laws and the right to have the Property or any portion thereof marshalled upon any foreclosure of the lien and interest hereof, to the extent provided in the Intercreditor Agreement or the Credit Agreement.

16. **Relationship of Parties; Third Party Beneficiary.** No right or benefit conferred on Collateral Agent under this Instrument shall constitute or be deemed to constitute Collateral Agent a partner or a joint venturer with Borrower. Borrower and Collateral Agent specifically acknowledge that the relationship between Borrower and Collateral Agent is solely that of Borrower and collateral agent for the Secured Creditors with respect to the Secured Obligations, and that all payments required to be made by Borrower to Collateral Agent under this Instrument and other Secured Debt Documents are required solely by reason of that relationship. All rights, interests and privileges conferred on Collateral Agent by this Instrument are for the sole and exclusive benefit of Collateral Agent and Secured Creditors, and shall not create any third party beneficiary rights unless expressly agreed in writing by Collateral Agent.

17. **Assignment of Rents.** Borrower assigns and transfers to Collateral Agent all the rents and revenues of the Property due by virtue of any leases or other licenses, or agreements for the occupancy or use of all or any part of the Property. Borrower authorizes Collateral Agent to collect all rents and revenues and hereby directs each tenant of the Property to pay rents directly to Collateral Agent; provided, however, that prior to the occurrence of an Event of Default under this Instrument, Borrower shall have a license to collect and receive all rents and revenues of the Property and to enjoy the use thereof (subject to the terms of the Secured Debt Documents). It is the intent of Borrower and Collateral Agent that this assignment of rents constitutes a present, absolute and unconditional assignment and not an assignment for additional security only. After the occurrence of an Event of Default under this Instrument and so long as such Event of Default shall be continuing, and without the necessity of Collateral Agent entering upon and taking full control of the Property, in person, by agent or by a court-appointed receiver, Collateral Agent shall immediately be entitled to possession of all rents and revenues of the Property both past due and unpaid and as they become due and payable. After the occurrence of an Event of Default under this Instrument and so long as such Event of Default shall be continuing, all such rents held, or thereafter received, by Borrower shall be held as trustee for the benefit of Collateral Agent only. After the occurrence of an Event of Default under this Instrument and so long as such Event of Default shall be continuing, Borrower agrees that each tenant of the Property shall be entitled to pay rents directly to Collateral Agent on Collateral Agent's written demand to each tenant delivered to each tenant personally, by mail or by delivering such demand to each rental space, without any obligation on the part of any tenant to inquire as to the existence of a default by Borrower.

Borrower covenants that Borrower has not executed any prior assignment of rents, that Borrower has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Collateral Agent from exercising its rights under this paragraph 17, and that at the time of execution of this Instrument there has been no prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Borrower agrees that Borrower will not after the date of this Instrument collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Borrower further agrees that Borrower will deliver to Collateral Agent additional assignments of rents and revenues of the Property as Collateral Agent may from time to time request.

All rents and revenues actually collected by Collateral Agent, if any, in connection with this paragraph 17 shall be applied in the manner set forth in the Intercreditor Agreement.

18. **Appointment of Receiver.** Upon the occurrence of an Event of Default hereunder, Collateral Agent, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right to the appointment of a receiver of the Property, whether or not Collateral Agent shall simultaneously exercise any of its other rights and remedies under this Instrument. To the full extent permitted by applicable law, such appointment may be made without notice, without bond, without regard to the solvency or insolvency of Borrower or any other Person liable for payment of any portion of the Secured Obligations at the time of application for such receiver and without regard to the then value or occupancy of the Property, and Collateral Agent or any other holder hereof may be appointed as such receiver. Borrower hereby consents to the continuation of such receivership for as long as Collateral Agent deems necessary or appropriate, unless otherwise provided by applicable law. Borrower hereby irrevocably consents to the appointment of such receiver and waives all notice thereof. Such receiver shall have the power to collect the rents, issues and profits of the Property and to extend, cancel or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity dates of the Secured Obligations and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Property are subject to this Instrument. Such receiver shall have all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property.

Notwithstanding the appointment of a receiver, if such receiver is not the Collateral Agent, the Collateral Agent, to the extent permitted by law, shall be entitled to retain possession and control of all cash held by or deposited with it or its agents or co-agents (including any amounts accruing to it by virtue of provisions regarding insurance or condemnation awards) pursuant to any provision of this Instrument or any Secured Debt Document.

19. **Assignment by Collateral Agent.** Subject to the terms of the Intercreditor Agreement, the interest of Collateral Agent in this Instrument is, at Collateral Agent's option, assignable, and any assignment hereof by Collateral Agent shall operate to vest in the assignee all rights, title, interests and powers in this Instrument conferred upon and granted to Collateral Agent.

20. **Withdrawal or Discontinuance of Proceedings.** To the full extent permitted by applicable law, in case Collateral Agent shall have proceeded to enforce any right, power or remedy under this Instrument by foreclosure, entry or otherwise or in the event Collateral Agent shall have commenced advertising the intended exercise of the right of foreclosure provided hereunder, and such proceeding or advertisement shall have been withdrawn, discontinued or abandoned for any reason (except a cure of all existing Events of Default acceptable to Collateral Agent), or shall have been determined adversely to Collateral Agent, then in every such case (i) Borrower, all other Persons liable for payment of any of the Secured Obligations, and Collateral Agent shall be restored to their former positions and rights, (ii) all rights, powers and remedies of Collateral Agent shall continue as if no such proceeding had been taken, (iii) each and every Event of Default declared or occurring prior or subsequent to such withdrawal, discontinuance or abandonment shall and shall be deemed to be a continuing event of default, and (iv) this Instrument and any other Secured Debt Document shall not be and shall not be deemed to have been reinstated or otherwise affected by such withdrawal, discontinuance or abandonment, and Borrower hereby expressly waives the benefit of any statute or rule of law now provided, or which may hereafter be provided, which would produce a result contrary to, or in conflict with, this paragraph 20.
21. **Release.** Collateral Agent shall cancel this Instrument under the circumstances provided for such cancellation in the Intercreditor Agreement. Borrower shall pay Collateral Agent's reasonable costs incurred in cancelling this Instrument.
22. **Attorney's Fees.** As used throughout this Instrument, "attorney's fees" shall mean reasonable attorney's fees and expenses.
23. **Acceleration Upon Default; Remedies.** Upon the occurrence of any Event of Default hereunder, Collateral Agent may declare all the Secured Obligations to be due and payable, and the same shall thereupon be and become due and payable without any presentment, demand, protest or notice of any kind. Thereafter, subject to and in accordance with the terms of the Intercreditor Agreement regarding the exercise of remedies, Collateral Agent may do any one or more of the following:
- (a) Either in person or by agent, with or without bringing any action or proceeding, enter upon and take possession of the Property, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Property, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same in accordance with the terms of the Intercreditor Agreement. The entering upon and taking possession of the Property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection, receipt and application of rents, issues or profits, Collateral Agent shall be entitled to exercise every right provided for in any of the Secured Debt Documents or by law or in equity upon occurrence of any Event of Default hereunder, including the right to exercise any power of sale set forth in this Instrument;
 - (b) Sell the Property, either in person or by auctioneer, at public outcry in front of the courthouse door in the county where the Property or any part thereof may be, to the highest bidder for cash, having first given notice of the time, terms and place of such sale by publishing a notice thereof once a week for three consecutive weeks prior to said sale in some newspaper published in said county, all other notice being hereby waived by Borrower; and Collateral Agent may thereupon execute and deliver to the purchaser at said sale a sufficient conveyance of the Property in fee simple, which conveyance may contain recitals as to the happening of the default upon which the execution of the power of sale, herein granted, depends, and said recitals shall be presumptive evidence that all preliminary acts prerequisite to said sale and deed were in all things duly complied with; and Collateral Agent, or any of the Secured Creditors, or their respective agents, representatives, successors or assigns, may bid for and purchase the Property, and, upon compliance with the terms of the sale and applicable law, may hold, retain, possess and dispose of such Property in its own absolute right without further accountability to Borrower; to the full extent permitted by applicable law, the Property or any part thereof, may be sold in one parcel and as an entirety, or in such parcels, manner or order as Collateral Agent in its sole discretion may elect, and one or more exercises of the rights herein granted shall not extinguish or exhaust the rights unless the entire Property is sold or the Secured Obligations paid in full; and Collateral Agent, or its assigns, shall collect the proceeds of such sale, applying such proceeds as provided in this Instrument or in the Intercreditor Agreement or as required by applicable law; and Borrower agrees that in case of a sale, as herein provided, Borrower or any person in possession under Borrower shall then become and be tenants holding over, and shall forthwith deliver possession to the purchaser at such sale, or be summarily dispossessed in accordance with the provisions of law applicable to tenants holding over; the rights hereby granted are in addition to any and all other remedies which Collateral Agent may have at law or in equity;
 - (b) Exercise any or all of the remedies available to a secured party under the applicable Uniform Commercial Code, including, but not limited to:
 - (i) Either personally or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Borrower and all others claiming under Borrower, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Borrower in respect to the Personal Property or any part thereof; and in the event Collateral Agent demands or attempts to take possession of the Personal Property in the exercise of any rights under this Instrument or any of the

other Secured Debt Documents, Borrower promises and agrees to promptly turn over and deliver complete possession thereof to Collateral Agent;

- (ii) Without notice to or demand upon Borrower, make such payments and do such acts as Collateral Agent may deem necessary to protect its security interest in the Personal Property, including without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith;
- (iii) Require Borrower to assemble the Personal Property or any portion thereof, at a place designated by Collateral Agent and reasonably convenient to both parties, and promptly to deliver such Personal Property to Collateral Agent, or an agent or representative designated by it. Collateral Agent, and its agents and representatives, shall have the right to enter upon any or all of Borrower's premises and property to exercise Collateral Agent's rights hereunder;
- (iv) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Collateral Agent may determine. Collateral Agent may be a purchaser at any such sale; or
- (v) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Collateral Agent shall give Borrower at least ten (10) days prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof.

- 24. **Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with the terms of the Intercreditor Agreement or as otherwise required by applicable law.
- 25. **Conflict with Intercreditor Agreement.** In the event of any conflict between the provisions of this Instrument and the provisions of the Intercreditor Agreement, the provisions of the Intercreditor Agreement shall control.
- 26. **Waiver of Jury Trial.** To the full extent permitted by applicable law, the provisions contained in the Intercreditor Agreement relating to waiver of jury trial are incorporated herein by reference and shall be applied to the terms, conditions, obligations and rights set forth in this Instrument.
- 27. **Additional Terms.** This Instrument shall be subject to such other terms and conditions as may be set forth in any rider attached hereto.

IN WITNESS WHEREOF, Borrower has caused this Instrument to be executed and sealed by its duly authorized representatives.

BORROWER:

KINDER CARE LEARNING CENTERS,
INC., a Delaware corporation

By: 

O. Scaburn Eaton III,
Vice President

Attest: 

Mary McLemore
Assistant Secretary

[CORPORATE SEAL]

ACKNOWLEDGMENT

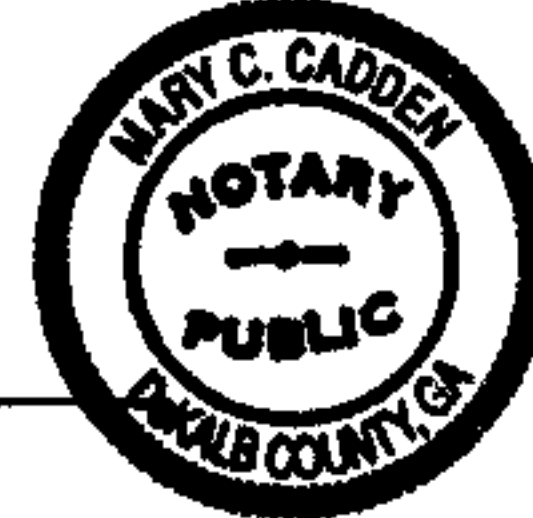
STATE OF GEORGIA

COUNTY OF FULTON

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgements, O. Seaburn Eaton III and Mary McLemore, who are the Vice President and Assistant Secretary, respectively, of KinderCare Learning Centers, Inc., a Delaware corporation, who are personally known to me or who have produced Driver's License No. E0826-60082-11442 issued by the State of New Jersey and Driver's License No. 2484373 issued by the State of Alabama, respectively, as identification, and who executed the foregoing instrument, and duly acknowledged before me that they executed the same with full authority for the purposes therein contained as the act and deed of said corporation.

Given under my hand and seal of office this 11th day of March, A.D. 1993.

Mary C. Cadden
NOTARY PUBLIC



MY COMMISSION EXPIRES: _____ My Commission Expires March 12, 1995.

[AFFIX NOTARIAL SEAL]

• CENTER NO. 1261
1700 Corporate Dr.
Birmingham AL 35242-2926

EXHIBIT A

LEGAL DESCRIPTION

Lot 10, according to the Map and Survey of Meadow Brook Corporate Park South, Phase II as recorded in Map Book 12, Page 10, in the Probate Office of Shelby County, Alabama.

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Inst # 1993-10559

04/16/1993-10559
03:14 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
010 MCD 30.00