

ALABASTER CVS, LLC,
an Alabama limited liability company

(Mortgagor)

to

UBS WARBURG REAL ESTATE INVESTMENTS INC.,
a Delaware corporation

(Mortgagee)

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND
SECURITY AGREEMENT**

Dated: As of August 10, 2001

DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:
Kronish Lieb Weiner & Hellman LLP
1114 Avenue of the Americas
New York, New York 10036
Attn: Thomas D. O'Connor, Esq.

Inst # 2001-36142

08/23/2001-36142
11:40 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT (the "Mortgage"), made as of August 20, 2001, by ALABASTER CVS, LLC, an Alabama limited liability company, having its principal place of business at 1852 Noel Place, Beverly Hills, California 90210, ("Mortgagor"), to UBS WARBURG REAL ESTATE INVESTMENTS INC., a Delaware corporation, having its principal place of business at 1285 Avenue of the Americas, 11th floor, New York, New York 10019 ("Mortgagee").

WITNESSETH:

To secure the payment of an indebtedness in the original principal sum of ONE MILLION FOUR HUNDRED THOUSAND and no/100 Dollars (\$1,400,000.00) (the "Loan"), lawful money of the United States of America, to be paid with interest according to a certain Mortgage Note of even date herewith made by Mortgagor to Mortgagee (the promissory note together with all consolidations, extensions, renewals or modifications thereof being hereinafter collectively called the "Note") and all other sums due hereunder, under the other Loan Documents (hereinafter defined) and under the Note (said indebtedness and interest due under the Note and all other sums due hereunder, under the Note and under the other Loan Documents being hereinafter collectively referred to as the "Debt"), Mortgagor has mortgaged, given, granted, bargained, sold, alienated, enfeoffed, conveyed, confirmed, warranted, pledged, assigned, and hypothecated and by these presents does hereby mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm, warrant, pledge, assign and hypothecate unto Mortgagee the real property described in Exhibit A attached hereto (the "Premises") and the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (the "Improvements");

TOGETHER WITH: all right, title, interest and estate of Mortgagor now owned, or hereafter acquired, in and to the following property, rights, interests and estates (the Premises, the Improvements, and the property, rights, interests and estates hereinafter described are collectively referred to herein as the "Mortgaged Property" or the "Property");

(a) all easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Premises and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, courtesy and rights of courtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Premises and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(b) all machinery, equipment, materials, supplies, fixtures (including but not limited to all heating, air conditioning, plumbing, lighting, communications, kitchen and elevator fixtures and equipment) and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Premises and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements (hereinafter collectively

called the "Equipment"), and the right, title and interest of Mortgagor in and to any of the Equipment which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state where the Mortgaged Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Mortgage;

(c) all awards, payments, or judgments, including interest thereon, which may heretofore or hereafter be made with respect to the Mortgaged Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of said right), or for a change of grade, or for any other injury to or decrease in the value of the Mortgaged Property; provided that in the event such award, payment or judgment includes compensation for both injury to or decrease in the value of the Mortgaged Property and compensation for any other injury or loss, Mortgagor agrees that the total amount of such award, payment or judgment shall be deemed compensation with respect to the Mortgaged Property; and Mortgagor hereby consents to Mortgagee's intervention into any proceeding regarding the Mortgaged Property;

(d) All leases and other agreements affecting the use, enjoyment or occupancy of the Premises and the Improvements heretofore or hereafter entered into (a "Lease" or "Leases") and all right, title and interest of Mortgagor, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Premises and the Improvements (the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to apply the Rents to payment of the Debt;

(e) all proceeds of and any unearned premiums on any insurance policies covering the Mortgaged Property whether or not such insurance is required by Paragraph 3 of this Security Instrument, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof, for damage to the Mortgaged Property;

(f) all refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Mortgaged Property as a result of tax certiorari or any applications or proceedings for reduction;

(g) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(h) the right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of Mortgagee in the Mortgaged Property;

(i) all agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Premises and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Mortgagor

therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Mortgagor thereunder; and

(j) all tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Mortgaged Property.

TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto Mortgagee and its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall pay to Mortgagee the Debt at the time and in the manner provided in the Note and this Mortgage and shall abide by and comply with each and every covenant and condition set forth herein, in the Note and in the other Loan Documents (hereinafter defined) in a timely manner, these presents and the estate hereby granted shall cease, terminate and be void;

AND Mortgagor represents and warrants to and covenants and agrees with Mortgagee as follows:

1. Payment of Debt: Incorporation of Covenants, Conditions and Agreements.
Mortgagor shall pay the Debt at the time and in the manner provided in the Note and in this Mortgage and the other Loan Documents. All the covenants, conditions and agreements contained in (a) the Note and (b) all and any of the documents including, without limitation, the Note and this Mortgage now or hereafter executed by Mortgagor and/or others and by or in favor of Mortgagee, which evidences, secures or guarantees all or any portion of the Debt or otherwise is executed and/or delivered in connection with the Note and this Mortgage (hereinafter collectively referred to as the "Loan Documents" or the "Other Security Documents") are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein.

2. Insurance.

(a) Mortgagor, at its sole cost and expense, shall obtain and maintain during the entire term of this Mortgage (the "Term") the following policies of insurance:

(i) Casualty insurance against loss or damage by fire, lightning and such other perils as are included in a standard "special form" policy (formerly known as an "all-risk" endorsement policy), and against loss or damage by all other risks and hazards covered by a standard extended coverage insurance policy including, without limitation, riot and civil commotion, vandalism, malicious mischief, burglary and theft in an amount equal to the greatest of (A) the then full replacement cost of the Improvements and Equipment, without deduction for physical depreciation, (B) the outstanding principal balance of the Loan, and (C) such amount that the insurer would not deem Mortgagor a co-insurer under said policies. The policies of insurance required under this Paragraph 2(a)(i) shall contain a "Replacement Cost" endorsement with a waiver of depreciation and an "Agreed Amount" or "No Coinsurance" endorsement and shall have a deductible no greater than \$20,000.

(ii) Commercial General Liability insurance, including a broad form comprehensive general liability endorsement and coverages for broad form property damage, contractual damages and personal injuries (including death resulting therefrom) and containing

minimum limits per occurrence of \$1,000,000.00 and \$2,000,000.00 in the aggregate for any policy year. In addition, at least \$5,000,000 excess and/or umbrella liability insurance shall be obtained and maintained for any and all claims, including all legal liability imposed upon Mortgagor and all court costs and attorneys' fees incurred in connection with the ownership, operation and maintenance of the Mortgaged Property.

(iii) Rental loss and/or business interruption insurance in an amount equal to the greater of (A) estimated gross revenues from the operations of the Mortgaged Property for a period of twelve (12) months or (B) the projected operating expenses (including debt service) for the maintenance and operation of the Mortgaged Property for a period of twelve (12) months. The amount of such rental loss and/or business interruption insurance shall be increased from time to time during the Term as and when new Leases and renewal Leases are entered into and the Rents increase or the estimate of (or the actual) operating expenses for the Mortgaged Property, as may be applicable, increases.

(iv) Insurance against loss or damage from (A) leakage of sprinkler systems and (B) explosion of steam boilers, air conditioning equipment, high pressure piping, machinery and equipment, pressure vessels or similar apparatus now or hereafter installed in the Improvements (without exclusion for explosions), in an amount at least equal to the outstanding principal amount of the Note or \$2,000,000.00, whichever is less.

(v) If Mortgagor has employees, worker's compensation insurance with respect to any employees of Mortgagor, as required by any governmental authority or legal requirement.

(vi) Flood insurance if any part of the Mortgaged Property is located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards in an amount at least equal to the outstanding principal amount of the Loan or such lesser amount as agreed to by Mortgagee in writing.

(vii) During any period of repair or restoration, builder's "all risk" insurance in an amount equal to not less than the full insurable value of the Mortgaged Property against such risks (including, without limitation, fire and extended coverage and collapse of the Improvements to agreed limits) as Mortgagee may request, in form and substance acceptable to Mortgagee.

(viii) If the Mortgaged Property is or ever becomes non-conforming with respect to zoning, ordinance or law coverage to compensate for loss of value or property resulting from operation of law and the cost of demolition and the increased cost of construction in amounts as requested by Mortgagee.

(ix) Upon the request of Mortgagee an excess and contingent insurance policy in form and substance satisfactory to Mortgagee, in Mortgagee's sole discretion.

(b) All policies of insurance (the "Policies") required pursuant to this Paragraph 2: (i) shall be issued by companies licensed to do business in the state where the

Mortgaged Property is located, with a financial strength and claims paying ability rating of at least A:X from A.M. Best Company and "A" or better by Standard & Poor's Ratings Services, a division of the McGraw-Hill Companies, Inc.; (ii) shall, with respect to all property insurance policies, name Mortgagee and its successors and/or assigns as their interest may appear as the mortgagee; (iii) shall, with respect to all property insurance policies and rental loss and/or business interruption insurance policies, contain a Standard Mortgagee Clause and a Lender's Loss Payable Endorsement, or their equivalents, naming Mortgagee as the person to which all payments made by such insurance company shall be paid; (iv) shall, with respect to all liability policies, name Mortgagee and its successors and/or assigns as an additional insured; (v) shall contain a waiver of subrogation against Mortgagee; (vi) shall contain such provisions as Mortgagee deems reasonably necessary or desirable to protect its interest including, without limitation, endorsements providing that neither Mortgagor, Mortgagee nor any other party shall be a co-insurer under said Policies and that Mortgagee shall receive at least thirty (30) days prior written notice of any modification, reduction or cancellation; and (vii) shall be satisfactory in form and substance to Mortgagee and shall be approved by Mortgagee as to amounts, form, risk coverage, deductibles, loss payees and insureds. Certified copies of the Policies shall be delivered to Mortgagee, c/o UBS Warburg Real Estate Investments Inc., 1285 Avenue of the Americas, 11th Floor, New York, New York 10019, Attn: Robert Pettinato, Director, within 30 days after the effective date thereof. Mortgagor shall pay the premiums for such Policies (the "Insurance Premiums") annually in advance as the same become due and payable and shall furnish to Mortgagee evidence of the renewal of each of the Policies with receipts for the payment of the Insurance Premiums or other evidence of such payment reasonably satisfactory to Mortgagee (provided, however, that Mortgagor shall not be required to furnish such evidence of payment to Mortgagee in the event that such Insurance Premiums have been paid by Mortgagee pursuant to Paragraph 5 hereof). In addition to the insurance coverages described in Paragraph 2(a) above, Mortgagor shall obtain such other insurance as may from time to time be reasonably required by Mortgagee in order to protect its interests. Within thirty (30) days after request by Mortgagee, Mortgagor shall obtain such increases in the amounts of coverage required hereunder as may be reasonably requested by Mortgagee, taking into consideration changes in the value of money over time, changes in liability laws, changes in prudent customs and practices, and the like.

3. Casualty/Application of Insurance Proceeds.

(a) If the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other casualty (an "Insured Casualty"), Mortgagor shall give prompt notice thereof to Mortgagee. Following the occurrence of an Insured Casualty, Mortgagor, regardless of whether Insurance Proceeds (hereinafter defined) are available, shall promptly proceed to restore, repair, replace or rebuild the same to be of at least equal value and of substantially the same character as prior to such damage or destruction, all to be effected in accordance with applicable law. The expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall become part of the Debt and be secured hereby and shall be reimbursed by Mortgagor to Mortgagee upon demand.

(b) In the event of an Insured Casualty where the damage to the Mortgaged Property does not exceed the lesser of (x) \$250,000 and (y) fifteen percent (15%) of outstanding principal balance of the Note, Mortgagor may settle and adjust any claim without the consent of

Mortgagee and agree with the insurance company or companies on the amount to be paid upon the loss (the "Insurance Proceeds"); provided that such adjustment is carried out in a competent and timely manner. In such case, provided that no Event of Default (as hereinafter defined) shall have occurred and that the restoration or repair of the Mortgaged Property can be completed prior to the earlier to occur of (i) the date which is six (6) months following such Insured Casualty and (ii) the date which is twelve (12) months prior to the Maturity Date (as defined in the Note), Mortgagor is hereby authorized to collect and receipt for any such Insurance Proceeds. In the event of an Insured Casualty where the damage to the Mortgaged Property equals or exceeds the lesser of (x) \$250,000 and (y) 15% of outstanding principal balance of the Note (a "Significant Casualty"), then Mortgagee may settle and adjust any claim without the consent of Mortgagor and agree with the insurance company or companies on the amount of the Insurance Proceeds and any Insurance Proceeds shall be due and payable solely to Mortgagee and held by Mortgagee in accordance with the terms of this Mortgage. In the event Mortgagor or any party other than Mortgagee is a payee on any check representing Insurance Proceeds with respect to a Significant Casualty, Mortgagor shall immediately endorse, and cause all such third parties to endorse, such check payable to the order of Mortgagee. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact, coupled with an interest, to endorse any such check payable to the order of Mortgagee. The expenses incurred by Mortgagee in the adjustment and collection of Insurance Proceeds shall become part of the Debt and be secured hereby and shall be reimbursed by Mortgagor to Mortgagee upon demand.

(c) In the event of loss or damages covered by any of the Policies, the following provisions shall apply with respect to application of Insurance Proceeds:

(i) In the event of an Insured Casualty where the loss is in an aggregate amount less than twenty-five percent (25%) of the original principal balance of the Note and if, in the reasonable judgment of Mortgagee, the Mortgaged Property can be restored prior to the earlier to occur at (A) the date which is six (6) months following such Insured Casualty and (B) the date which is twelve (12) months prior to Maturity Date, and after such restoration will adequately secure the outstanding balance of the Debt and will have a value at least equal to the value immediately prior to such Insured Casualty, then, if no Event of Default (as hereinafter defined) shall have occurred, the Insurance Proceeds (after reimbursement of any expenses incurred by Mortgagee) shall be applied to reimburse Mortgagor for the cost of restoring, repairing, replacing or rebuilding the Mortgaged Property or part thereof subject to the Insured Casualty, in the manner set forth below. Mortgagor hereby covenants and agrees to commence and diligently to prosecute such restoring, repairing, replacing or rebuilding; provided always, that Mortgagor shall pay all costs (and if required by Mortgagee, Mortgagor shall deposit the total thereof with Mortgagee in advance) of such restoring, repairing, replacing or rebuilding in excess of the net Insurance Proceeds made available pursuant to the terms hereof.

(ii) Except as provided in Paragraph 3(c)(i) above, the Insurance Proceeds collected upon any Insured Casualty shall, at the option of Mortgagee in its sole discretion, be applied to the payment of the Debt or applied to reimburse Mortgagor for the cost of restoring, repairing, replacing or rebuilding the Mortgaged Property or part thereof subject to the Insured Casualty, in the manner set forth below. Additionally, throughout the term of the Loan if an Event of Default, or an event which with notice and/or the passage of time or both would constitute an

Event of Default, has occurred then the Mortgagor shall pay to Mortgagee, with respect to any payment of the Debt pursuant to this paragraph, an additional amount equal to the Proportionate Yield Maintenance Premium (as defined in Paragraph 43 below); provided, however, that if an Event of Default, or an event which with notice and/or the passage of time or both would constitute an Event of Default, has not occurred, then the Proportionate Yield Maintenance Premium shall not be payable. Any such application to the Debt shall (A) be applied to those payments of principal and interest last due under the Note but shall not postpone any payments otherwise required pursuant to the Note other than such last due payments and (B) not cause or result in the Monthly Debt Service Payment Amount under the Note being re-cast based upon the reduction in the principal balance of the Loan and the number of months remaining until the Maturity Date (as defined in the Note).

(iii) In the event Mortgagor is entitled to reimbursement out of Insurance Proceeds held by Mortgagee, such Insurance Proceeds shall be disbursed from time to time upon Mortgagee being furnished with (1) evidence satisfactory to Mortgagee of the estimated cost of completion of the restoration, repair, replacement and rebuilding, (2) funds or, at Mortgagee's option, assurances satisfactory to Mortgagee that such funds are available, sufficient in addition to the Insurance Proceeds to complete the proposed restoration, repair, replacement and rebuilding, and (3) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, bonds, plats of survey and such other evidences of cost, payment and performance as Mortgagee may reasonably require and approve. Mortgagee may, in any event, require that all plans and specifications for such restoration, repair, replacement and rebuilding be submitted to and approved by Mortgagee prior to commencement of work. No payment made prior to the final completion of the restoration, repair, replacement and rebuilding shall exceed ninety percent (90%) of the value of the work performed from time to time; funds other than Insurance Proceeds shall be disbursed prior to disbursement of such Insurance Proceeds; and at all times, the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited for that purpose or irrevocably committed to the satisfaction of Mortgagee by or on behalf of Mortgagor for that purpose, shall be at least sufficient in the reasonable judgment of Mortgagee to pay for the cost of completion of the restoration, repair, replacement or rebuilding, free and clear of all liens or claims for lien. Any surplus which may remain out of Insurance Proceeds held by Mortgagee after payment of such costs of restoration, repair, replacement or rebuilding shall be paid to any party entitled thereto.

4. Payment of Taxes, Etc. Mortgagor shall pay all taxes, assessments, water rates and sewer rents, now or hereafter levied or assessed or imposed against the Mortgaged Property or any part thereof (the "Taxes") and all water rates, sewer rents, ground rents, maintenance charges, and other impositions and charges now or hereafter levied or assessed or imposed against the Mortgaged Property or any part thereof (collectively, the "Other Charges") as the same become due and payable. Mortgagor shall not suffer and shall promptly cause to be paid and discharged any lien or charge whatsoever which may be or become a lien or charge against the Mortgaged Property, and shall promptly pay for all utility services provided to the Mortgaged Property. Mortgagor shall furnish to Mortgagee receipts for the payment of the Taxes and the Other Charges prior to the date the same shall become delinquent (provided, however, that Mortgagor shall not be required to furnish such receipts for payment of Taxes in the event that such Taxes have been paid by Mortgagee pursuant to Paragraph 5 hereof).

5. Tax and Insurance Escrow Fund. Simultaneously with the execution hereof, Mortgagor shall deposit with Mortgagee the amount, as determined by Mortgagee, which, when added to the monthly payments subsequently required to be deposited with Mortgagee hereunder on account of Taxes and Insurance Premiums, will result in there being on deposit with Mortgagee an amount sufficient to pay the next due installment of Taxes on the Mortgaged Property at least thirty (30) days prior to the due date thereof and the next due annual Insurance Premiums with respect to the Mortgaged Property at least thirty (30) days prior to the due date thereof. In addition, Mortgagor shall pay to Mortgagee on each Payment Date (as defined in the Note) (a) one-twelfth of the Taxes that Mortgagee estimates will be payable during the next ensuing twelve (12) months in order to accumulate with Mortgagee sufficient funds to pay all such Taxes at least thirty (30) days prior to their respective due dates, and (b) one-twelfth of the Insurance Premiums that Mortgagee estimates will be payable for the renewal of the coverage afforded by the Policies upon the expiration thereof in order to accumulate with Mortgagee sufficient funds to pay all such Insurance Premiums at least thirty (30) days prior to the expiration of the Policies (said initial deposit, together with the amounts in clauses (a) and (b) above, being hereinafter called the "Tax and Insurance Escrow Fund"). Mortgagee will apply the Tax and Insurance Escrow Fund to payments of Taxes and Insurance Premiums required to be made by Mortgagor pursuant to Paragraphs 2 and 4 hereof. In making any payment relating to the Tax and Insurance Escrow Fund, Mortgagee may do so according to any bill, statement or estimate procured from the appropriate public office (with respect to Taxes) or insurer or agent (with respect to Insurance Premiums), without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. If at any time Mortgagee determines that the Tax and Insurance Escrow Fund is not or will not be sufficient to pay the items set forth in clauses (a) and (b) above, Mortgagee shall notify Mortgagor of such determination and Mortgagor shall increase its monthly payments to Mortgagee by the amount that Mortgagee estimates is sufficient to make up the deficiency at least thirty (30) days prior to delinquency of the Taxes and/or expiration of the Policies, as the case may be. If the amount of the Tax and Insurance Escrow Fund shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Paragraphs 2 and 4 hereof, Mortgagee shall credit such excess against future payments to be made to the Tax and Insurance Escrow Fund, and all excess amounts remaining when the Debt has been satisfied shall be returned to Mortgagor. With respect to the portion of Tax and Insurance Escrow Fund which constitutes Insurance Premiums, upon delivery to Mortgagee of evidence (satisfactory to Mortgagee) that the Insurance Premiums have been paid for the prior twelve (12) month period, Mortgagee shall remit the amount of such Insurance Premiums to Mortgagor provided that there exists to Event of Default.

6. Replacement Escrow Fund

(a) Mortgagor shall pay to Mortgagee on each Payment Date an amount equal to one-twelfth of the Annual Replacement Amount (as defined below) and such payments shall be held in escrow (the "Replacement Escrow Fund") and disbursed in accordance with the following provisions of this Paragraph 6. The "Annual Replacement Amount", which is based on Mortgagee's initial estimate of the annual amount for replacements and repairs of a capital nature required to be made to the Mortgaged Property, shall initially be \$1,518.72. Mortgagee may reassess the Annual Replacement Amount from time to time in its reasonable discretion (based upon its then current underwriting standards) and, upon notice to Mortgagor, Mortgagor shall be required to deposit such

reassessed Annual Replacement Amount. Provided that no Event of Default shall have occurred, Mortgagee shall make disbursements from the Replacement Escrow Fund as requested by Mortgagor, and approved by Mortgagee in its reasonable discretion, on a monthly basis in increments of no less than \$1,000.00 upon delivery by Mortgagor of a draw request accompanied by (i) copies of paid invoices (or with respect to requests in excess of \$10,000.00, unpaid invoices) for the amounts requested, (ii) a brief description of the repair or replacement (including evidence that same is of a capital nature) and, if required by Mortgagee, (iii) lien waivers and releases from all parties furnishing materials and/or services in connection with the requested payment. Any disbursement by Mortgagee hereunder for a capital item in excess of \$10,000.00 and not already paid for by Mortgagor, shall be made by joint check, payable to Mortgagor and the applicable contractor, supplier, materialman, mechanic, subcontractor or other party to whom payment is due in connection with such capital item. Mortgagee may require an inspection of the Mortgaged Property at Mortgagor's expense, or other evidence as Mortgagee may in its reasonable discretion require, prior to making a monthly disbursement in order to verify compliance with the requirements of this Paragraph 6(a).

7. General Provisions Applicable to Escrow Funds. All monies on deposit in the Replacement Escrow Fund, and the Tax and Insurance Escrow Fund (collectively, the "Escrow Funds") shall earn interest at a rate commensurate with the rate of interest paid from time to time on money market accounts at a commercial bank selected by Mortgagee in its sole discretion from time to time, with interest credited monthly to such Escrow Funds (with the exception of the Tax and Insurance Escrow Fund). All earnings or interest on each of the Escrow Funds (with the exception of the Tax and Insurance Escrow Fund) shall be and become part of the respective Escrow Fund and shall be disbursed as provided in the paragraph(s) of this Mortgage applicable to each such Escrow Fund. No earnings or interest on the Tax and Insurance Escrow Fund shall be payable to Mortgagor. Mortgagor hereby pledges to Mortgagee and grants to Mortgagee a first priority perfected security interest in any and all monies now or hereafter deposited in the Escrow Funds as additional security for the payment of the Debt. Upon the occurrence of an Event of Default, Mortgagee may apply any sums then present in the Escrow Funds to the payment of the Debt in any order in its sole discretion. The Escrow Funds shall not constitute a trust fund and may be commingled with other monies held by Mortgagee.

8. Condemnation.

(a) Mortgagor shall promptly give Mortgagee written notice of the actual or threatened commencement of any condemnation or eminent domain proceeding with respect to all or any portion of the Mortgaged Property (a "Condemnation") and shall deliver to Mortgagee copies of any and all papers served in connection with such Condemnation. Following the occurrence of a Condemnation, Mortgagor, regardless of whether an Award (hereinafter defined) is available or is sufficient in amount, shall promptly proceed to restore, repair, replace or rebuild the same to the extent practicable to be of at least equal value and of substantially the same character as prior to such Condemnation, all to be effected in accordance with applicable law.

(b) Any and all awards or payments ("Award") for any taking accomplished through a Condemnation (a "Taking") are hereby assigned by Mortgagor to Mortgagee

and Mortgagee is hereby authorized to make any compromise or settlement in connection with such Condemnation, subject to the provisions of this Mortgage.

(c) In the event of any Condemnation where the Award is in an aggregate amount less than twenty-five percent (25%) of the original principal balance of the Note, and if, in the reasonable judgment of Mortgagee, the Mortgaged Property can be restored prior to the earlier to occur of (i) the date which is six (6) months following such Taking and (ii) the date which is twelve (12) months prior to Maturity Date, and after such restoration will adequately secure the outstanding balance of the Debt and will have a value at least equal to the value immediately prior to such Taking, then, if no Event of Default shall have occurred and be then continuing, the proceeds of the Award (after reimbursement of any expenses incurred by Mortgagee) shall be applied to reimburse Mortgagor for the cost of restoring and rebuilding the Mortgaged Property, and such Award shall be disbursed in the same manner as provided in Paragraph 3(c)(iii) for the application of Insurance Proceeds. Any surplus which may remain out of the Award received by Mortgagee after payment of such costs of restoration, repair, replacement or rebuilding shall be paid to any party entitled thereto.

(d) Except as provided in Paragraph 8(c) above, the Award collected upon any Condemnation shall, at the option of Mortgagee in its sole discretion, be applied to the payment of the Debt or applied to reimburse Mortgagor for the cost of restoring and rebuilding the Mortgaged Property in the same manner as provided in Paragraph 3(c)(iii) for the application of Insurance Proceeds. Additionally, throughout the term of the Loan if an Event of Default, or an event which with notice and/or the passage of time or both would constitute an Event of Default, has occurred then the Mortgagor shall pay to Mortgagee, with respect to any payment of the Debt pursuant to this paragraph, an additional amount equal to the Proportionate Yield Maintenance Premium in accordance with Paragraph 43 below; provided, however, that if an Event of Default, or an event which with notice and/or the passage of time or both would constitute an Event of Default, has not occurred, then the Proportionate Yield Maintenance Premium shall not be payable. Any such application to the Debt shall (i) be applied to those payments of principal and interest last due under the Note but shall not postpone or reduce any payments otherwise required pursuant to the Note other than such last due payments and (ii) not cause or result in the Monthly Debt Service Payment Amount under the Note to be re-cast based upon the reduction in the principal balance of the Loan and the number of months remaining until the Maturity Date. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by Mortgagee of such Award, Mortgagee shall have the right, whether or not a deficiency judgment on the Note shall be recoverable or shall have been sought, recovered or denied, to receive all or a portion of said Award sufficient to pay the Debt.

(e) Notwithstanding any Taking by any public or quasi-public authority (including, without limitation, any transfer made in lieu of or in anticipation of such a Taking), Mortgagor shall continue to pay the Debt at the time and in the manner provided for in the Note, in this Mortgage and the other Loan Documents and the Debt shall not be reduced unless and until any Award shall have been actually received and applied by Mortgagee to expenses of collecting the Award and to discharge of the Debt.

9. Leases and Rents.

(a) Mortgagor does hereby absolutely and unconditionally assign to Mortgagee, all Mortgagor's right, title and interest in all current and future Leases and Rents, it being intended by Mortgagor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Such assignment to Mortgagee shall not be construed to bind Mortgagee to the performance of any of the covenants, conditions or provisions contained in any such Lease or otherwise impose any obligation upon Mortgagee. Nevertheless, subject to the terms of this paragraph, Mortgagee grants to Mortgagor a revocable license to operate and manage the Mortgaged Property and to collect the Rents. Mortgagor shall hold the Rents, or a portion thereof, sufficient to discharge all current sums due on the Debt, in trust for the benefit of Mortgagee for use in the payment of such sums. Upon the occurrence of an Event of Default, without the need for notice or demand, the license granted to Mortgagor herein shall automatically be revoked, and Mortgagee shall immediately be entitled to possession of all Rents, whether or not Mortgagee enters upon or takes control of the Mortgaged Property. Mortgagee is hereby granted and assigned by Mortgagor the right, at its option, upon revocation of the license granted herein, to enter upon the Mortgaged Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of the license may be applied toward payment of the Debt in such priority and proportions as Mortgagee in its sole discretion shall deem proper.

(b) All Leases entered into after the date hereof shall be written on the standard form of lease which has been approved by Mortgagee. Upon request, Mortgagor shall furnish Mortgagee with executed copies of all Leases. No material changes may be made to the Mortgagee-approved standard lease without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld provided such changes are commercially reasonable. In addition, all renewals of existing Leases and all proposed new leases shall provide for rental rates comparable to existing local market rates and shall be arms length transactions. All Leases entered into after the date hereof shall provide that they are subordinate to this Mortgage and that the tenant agrees to attorn to Mortgagee. Notwithstanding anything set forth herein to the contrary, Mortgagor shall not enter into any new Leases of the Mortgaged Property without Mortgagee's consent if such new Lease covers more than twenty percent (20%) of the Mortgaged Property or covers more than twenty percent (20%) of the gross rental revenues of the Mortgaged Property.

(c) Mortgagor (i) shall observe and perform all the obligations imposed upon the lessor under the Leases and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (ii) shall promptly send copies to Mortgagee of all notices of default which Mortgagor shall send or receive thereunder; (iii) shall enforce all the terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed, (iv) shall not collect any of the Rents more than one (1) month in advance; (v) shall not execute any other assignment of the lessor's interest in the Leases or the Rents; and (vi) shall deliver to Mortgagee, upon request, tenant estoppel certificates from each commercial tenant at the Mortgaged Property in form and substance reasonably satisfactory to Mortgagee, provided that Mortgagor shall not be required to deliver such certificates more frequently than once in any calendar year. Except to the extent Mortgagor is acting in the ordinary course of business and in a commercially reasonable manner, or Mortgagor has received the prior written consent of Mortgagee, Mortgagor shall not (A) alter, modify or change the terms of any Lease in any material respect; (B) consent to any assignment of or subletting under any Lease not in accordance with its terms; and (C)

cancel or terminate any Lease or accept a surrender thereof, unless such tenant is in default thereunder; provided, however, that any Lease may be cancelled if at the time of cancellation thereof, a New Lease is entered into on substantially the same terms or more favorable terms as the canceled Lease.

(d) All security deposits of tenants, whether held in cash or any other form, shall not be commingled with any other funds of Mortgagor and, if cash, shall be deposited by Mortgagor at such commercial or savings bank or banks as may be reasonably satisfactory to Mortgagee. Following the occurrence and during the continuance of any Event of Default, Mortgagor shall, upon Mortgagee's request, if permitted by any applicable legal requirements, turn over to Mortgagee the security deposits (and any interest theretofore earned thereon) with respect to all or any portion of the Mortgaged Property, to be held by Mortgagee subject to the terms of the Leases.

10. Representations, Warranties and Covenants Concerning Loan. Mortgagor represents, warrants and covenants as follows:

(a) Organization and Existence. Mortgagor is duly organized and validly existing as a limited liability company in good standing under the laws of Alabama and in all other jurisdictions in which Mortgagor is transacting business. Mortgagor has the power and authority to execute, deliver and perform the obligations imposed on it under the Loan Documents and to consummate the transactions contemplated by the Loan Documents and has taken all necessary actions for the authorization of the borrowing on account of the Loan and for the execution and delivery of the Loan Documents. Mortgagor is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended and the related Treasury Department regulations, including temporary regulations.

(b) Enforceability. All of the Loan Documents constitute valid, legal and binding obligations of Mortgagor and are fully enforceable against Mortgagor in accordance with their terms by Mortgagee and its successors, transferees and assigns, subject only to bankruptcy laws and general principles of equity.

(c) No Conflict/Violation of Law. The execution, delivery and performance of the Loan Documents by the Mortgagor will not cause or constitute a default under or conflict with the organizational documents of Mortgagor, any Guarantor or any general partner or managing member of Mortgagor or any Guarantor.

(d) Compliance with Applicable Laws and Regulations. All of the Improvements and the use of the Mortgaged Property comply with, and shall remain in compliance with, all applicable statutes, rules, regulations and private covenants now or hereafter relating to the ownership, construction, use or operation of the Mortgaged Property, including all applicable statutes, rules and regulations pertaining to requirements for equal opportunity, anti-discrimination, fair housing, environmental protection, zoning, handicapped access and land use. All of the Improvements comply with all material requirements of any applicable zoning and subdivision laws and ordinances, including without limitation, parking requirements.

(e) No Litigation. There are no pending actions, suits or proceedings, arbitrations or governmental investigations against the Mortgaged Property, an adverse outcome of

which would materially affect the Mortgagor's performance under the Note, this Mortgage or the other Loan Documents.

(f) Title. Mortgagor has good, marketable and insurable title to the Mortgaged Property and Mortgagor possesses an unencumbered fee estate in the Premises and the Improvements and it owns the Mortgaged Property free and clear of all liens, encumbrances and charges whatsoever except for those exceptions shown in the title insurance policy insuring the lien of this Mortgage (the "Permitted Exceptions") and this Mortgage is and will remain a valid and enforceable first lien on and security interest in the Mortgaged Property, subject only to said exceptions.

(g) First Lien. Upon the execution by the Mortgagor and the recording of this Mortgage, and upon the execution and filing of UCC-1 financing statements or amendments thereto, the Mortgagee will have a valid first lien on the Mortgaged Property and a valid security interest in the Equipment subject to no liens, charges or encumbrances other than the Permitted Exceptions.

(h) Fraudulent Conveyance. The Mortgagor (1) has not entered into the Loan or any Loan Document with the actual intent to hinder, delay, or defraud any creditor and (2) received reasonably equivalent value in exchange for its obligations under the Loan Documents.

(i) Investment Company Act. The Mortgagor is not (1) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; (2) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (3) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

(j) Access/Utilities. The Mortgaged Property has adequate rights of access to public ways and is served by adequate water, sewer, sanitary sewer and storm drain facilities. All public utilities necessary to the continued use and enjoyment of the Mortgaged Property as presently used and enjoyed are located in the public right-of-way abutting the Mortgaged Property, and all such utilities are connected so as to serve the Mortgaged Property without passing over other property.

(k) Taxes Paid. Mortgagor has filed all federal, state, county and municipal tax returns required to have been filed by Mortgagor, and has paid all taxes which have become due pursuant to such returns or to any notice of assessment received by Mortgagor, and Mortgagor has no knowledge of any basis for additional assessment with respect to such taxes.

(l) Single Tax Lot. The Premises consists of a single tax lot or multiple tax lots; no portion of said tax lot(s) covers property other than the Premises or a portion of the Premises and no portion of the Premises lies in any other tax lot. The Premises consists of one or more legally sub-divided lots.

(m) Flood Zone. The Mortgaged Property is not located in a flood hazard area as defined by the Federal Insurance Administration.

(n) Misstatements of Fact. No statement of fact made in the Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading.

(o) Condition of Improvements. The Mortgaged Property has not been damaged by fire, water, wind or other cause of loss or any previous damage to the Mortgaged Property has been fully restored, and there is no proceeding pending for the total or partial condemnation of, or affecting, the Mortgaged Property.

(p) No Insolvency or Judgment. Neither Mortgagor, nor any general partner or managing member (as applicable) of Mortgagor, nor any guarantor of the Loan ("Guarantor") is currently the subject of or a party to any completed or pending bankruptcy, reorganization or insolvency proceeding. The Loan will not render the Mortgagor or any of the foregoing parties insolvent.

(q) No Labor or Materialmen Claims. All parties furnishing labor and materials have been paid in full and, except for such liens or claims insured against by the policy of title insurance to be issued in connection with the Loan, there are no mechanics', laborers' or materialmen's liens or claims outstanding for work, labor or materials affecting the Mortgaged Property, whether prior to, equal with or subordinate to the lien of this Mortgage.

(r) No Purchase Options. No tenant, person, party, firm, corporation or other entity has an option to purchase the Mortgaged Property, any portion thereof or any interest therein.

(s) Leases. The Mortgaged Property is not subject to any Leases other than the Leases described in the rent roll delivered to Mortgagee in connection with this Mortgage. No person has any possessory interest in the Mortgaged Property or right to occupy the same except under and pursuant to the provisions of the Leases.

(t) Management of the Trust Property. Mortgagor shall personally manage the Mortgaged Property in its own name and for its own account. Mortgagor hereby represents and warrants to Mortgagee that Mortgagor has not engaged and has no present intention of engaging any affiliate of Mortgagor or any third party to manage the Mortgaged Property for or on behalf of Mortgagor. In no event shall any management fee for the Mortgaged Property exceed four percent (4%) of effective gross rental income. Any fee relating to the management or operation of the Mortgaged Property is and shall at all times remain subordinate to this Mortgage. Mortgagor shall not enter into any agreement relating to the management or operation of the Mortgaged Property with any party without the express prior written consent of Mortgagee, which consent shall not be unreasonably withheld. If at any time Mortgagee consents to the appointment of a new manager, such new manager and Mortgagor shall, as a condition of Mortgagee's consent, execute a Manager's Consent and Subordination of Management Agreement in the form then being used by Mortgagee.]

(u) Set-Off. The Note, this Mortgage and the other Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury, nor would the operation of any of the terms of the Note, this Mortgage and the other Loan Documents, or the exercise of any right thereunder, render this Mortgage unenforceable, in whole

or in part, or subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury.

11. Single Purpose Entity/Separateness. Mortgagor represents, warrants and covenants as follows:

(a) Mortgagor does not own and will not own any asset or property other than (i) the Mortgaged Property, and (ii) incidental personal property necessary for the ownership or operation of the Mortgaged Property.

(b) Mortgagor will not engage in any business other than the ownership, management and operation of the Mortgaged Property and Mortgagor will conduct and operate its business as presently conducted and operated.

(c) Mortgagor has not incurred and will not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (i) the Debt, (ii) trade and operational debt incurred in the ordinary course of business not outstanding for more than sixty (60) days with trade creditors and in amounts as are normal and reasonable under the circumstances. No indebtedness other than the Debt may be secured (subordinate or pari passu) by the Mortgaged Property.

12. Maintenance of Mortgaged Property. Mortgagor shall cause the Mortgaged Property to be maintained in a good and safe condition and repair. The Improvements and the Equipment shall not be removed, demolished or materially altered (except for normal replacement of the Equipment) without the consent of Mortgagee, which consent shall not be unreasonably withheld if such proposed removal, demolition or alteration is conducted in the ordinary course of business and does not detract from the economic value of the Mortgaged Property.

13. Transfer or Encumbrance of the Mortgaged Property.

(a) Mortgagor acknowledges that Mortgagee has examined and relied on the creditworthiness and experience of Mortgagor in owning and operating properties such as the Mortgaged Property in agreeing to make the Loan, and that Mortgagee will continue to rely on Mortgagor's ownership of the Mortgaged Property as a means of maintaining the value of the Mortgaged Property as security for repayment of the Debt. Mortgagor acknowledges that Mortgagee has a valid interest in maintaining the value of the Mortgaged Property so as to ensure that, should Mortgagor default in the repayment of the Debt, Mortgagee can recover the Debt by a sale of the Mortgaged Property. Mortgagor shall not, without the prior written consent of Mortgagee, sell, convey, alienate, mortgage, encumber, pledge or otherwise transfer (collectively, "Transfer") the Mortgaged Property or any part thereof, or permit the Mortgaged Property or any part thereof to be Transferred.

(b) A Transfer within the meaning of this Paragraph 13 shall be deemed to include (i) an installment sales agreement wherein Mortgagor agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments; (ii) an agreement by Mortgagor leasing all or a substantial part of the Mortgaged Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Mortgagor's right, title and interest in and to any Leases or any Rents; (iii) if Mortgagor, Guarantor, or any general partner, managing member or controlling shareholder of Mortgagor or Guarantor is

a corporation, the voluntary or involuntary sale, conveyance or transfer of such corporation's stock (or the stock of any corporation directly or indirectly controlling such corporation by operation of law or otherwise) or the creation or issuance of new stock in one or a series of transactions by which an aggregate of more than 10% of such corporation's stock shall be vested in a party or parties who are not now stockholders or any change in the control of such corporation; (iv) if Mortgagor, any Guarantor or any general partner, managing member or controlling shareholder of Mortgagor or any Guarantor is a limited or general partnership, joint venture or limited liability company, the change, removal, resignation or addition of a general partner, managing partner, limited partner, joint venturer or member or the transfer of the partnership interest of any general partner, managing partner or limited partner or the transfer of the interest of any joint venturer or member; and (v) any pledge, hypothecation, assignment, transfer or other encumbrance of any direct or indirect ownership interest in Mortgagor.

(c) Mortgagee shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Transfer without Mortgagee's consent. This provision shall apply to every Transfer of the Mortgaged Property regardless of whether voluntary or not, or whether or not Mortgagee has consented to any previous Transfer of the Mortgaged Property.

(d) Mortgagee's consent to one Transfer of the Mortgaged Property shall not be deemed to be a waiver of Mortgagee's right to require such consent to any future Transfer. Any Transfer of the Mortgaged Property made in contravention of this paragraph shall be null and void and of no force and effect.

(e) Mortgagor agrees to bear and shall pay or reimburse Mortgagee on demand for all reasonable expenses (including, without limitation, reasonable attorneys' fees and disbursements, title search costs and title insurance endorsement premiums) incurred by Mortgagee in connection with the review, approval and documentation of any such Transfer.

(f) Mortgagee's consent to a Transfer will not be unreasonably withheld after consideration of all relevant factors, provided that:

(i) no Event of Default or event which with the giving of notice or the passage of time or both would constitute an Event of Default shall have occurred and remain uncured;

(ii) the proposed transferee ("Transferee") shall be a reputable entity or person of good character, creditworthy, with sufficient financial worth considering the obligations assumed and undertaken, as evidenced by financial statements and other information reasonably requested by Mortgagee, and the Transferee shall satisfy the Single Purpose Entity/Separateness requirements of Paragraph 11 above;

(iii) the Transferee and its property manager shall have sufficient experience in the ownership and management of properties similar to the Mortgaged Property, and Mortgagee shall be provided with reasonable evidence thereof (and Mortgagee reserves the right to approve the Transferee without approving the substitution of the property manager);

(iv) Mortgagee shall have received a non-consolidation opinion and confirmation in writing from the Rating Agencies (as hereinafter defined) to the effect that such transfer will not result in a re-qualification, reduction or withdrawal of any rating initially assigned or to be assigned in a Secondary Market Transaction (as hereinafter defined). The term "Rating Agencies" as used herein shall mean each of Standard & Poor's Ratings Group, a division of the McGraw-Hill Companies, Inc., Moody's Investors Service, Inc., Duff & Phelps Credit Rating Co. and Fitch Investors Service, L.P., or any other nationally-recognized statistical rating agency which has been approved by Mortgagee;

(v) the Transferee shall have executed and delivered to Mortgagee an assumption agreement in form and substance acceptable to Mortgagee, evidencing such Transferee's agreement to abide and be bound by the terms of the Note, this Mortgage and the other Loan Documents, together with such legal opinions and title insurance endorsements as may be reasonably requested by Mortgagee; and

(vi) Mortgagee shall have received an assumption fee equal to one percent (1%) of the Debt on the date of such assumption and the payment of, or reimbursement for, all costs and expenses incurred by Mortgagee in connection with such assumption (including, without limitation, reasonable attorney's fees and costs). Mortgagee may, as a condition to evaluating any requested consent to a Transfer, require that Mortgagor post a cash deposit with Mortgagee in an amount equal to Mortgagee's anticipated costs and expenses in evaluating any such request for consent.

(g) Notwithstanding anything to the contrary contained in this Paragraph 13, holders of interests in Mortgagor (or holders of interests in any entity directly or indirectly holding an interest in Mortgagor) as of the date of this Mortgage (the "Interest Holders") shall have the right to transfer their interest in Mortgagor (or any entity directly or indirectly holding an interest in Mortgagor) to another person or entity who is not an Interest Holder (including, without limitation, transfers that occur by inheritance, devise, or bequest or by operation of law or transfers to immediate family members for estate planning purposes), without Mortgagee's consent; provided, however, that:

(i) after taking into account any prior transfers pursuant to this Paragraph 13, whether to the proposed transferee or otherwise, no such transfer (or series of transfers) shall result in (x) the proposed transferee, together with all members of his/her immediate family or any affiliates thereof, owning in the aggregate (directly, indirectly or beneficially) more than 49% of the interests in Mortgagor (or any entity directly or indirectly holding an interest in Mortgagor), or (y) a transfer in the aggregate of more than 49% of the interests in Mortgagor as of the date hereof;

(ii) no such transfer of interest shall result in a change of control of Mortgagor (or its managing member/general partner) or the day to day operations of the Mortgaged Property;

(iii) Mortgagor shall give Mortgagee notice of such transfer together with copies of all instruments effecting such transfer not less than ten (10) days prior to the date of such transfer;

(iv) no Event of Default shall have occurred and remain uncured;
and

(v) the legal and financial structure of Mortgagor and its shareholders, partners or members, and the single purpose nature and bankruptcy remoteness of Mortgagor and its shareholders, partners or members after such transfer, shall satisfy Mortgagee's then current applicable underwriting criteria and requirements, including, without limitation, the requirement, at the request of Mortgagee, to deliver written confirmations from the Rating Agencies that such transfer or series of transfers will not result in a qualification, downgrade or withdrawal of the then applicable ratings.

(h) For purposes of this Paragraph 13 (i) a change of control of Mortgagor (or its managing member/general partner) shall be deemed to have occurred if there is any change in the identity of the individual or entities or group of individuals or entities who have the right, by virtue of any partnership agreement, articles of incorporation, by-laws, articles of organization, operating agreement or any other agreement, with or without taking any formative action, to cause Mortgagor (or its managing member/general partner) to take some action or to prevent, restrict or impede Mortgagor from taking some action which, in either case, Mortgagor could take or could refrain from taking were it not for the rights of such individuals; and (ii) an "immediate family member" shall mean a spouse or a child of any Interest Holder.

14. Estoppel Certificates and No Default Affidavits. Mortgagor shall, within ten (10) days after request by Mortgagee, furnish Mortgagee with a statement, duly acknowledged and certified, setting forth (i) the original principal amount of the Note, (ii) the unpaid principal amount of the Note, (iii) the rate of interest of the Note, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) a statement that the Note, this Mortgage and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.

15. Changes in Laws Regarding Taxation. If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Mortgaged Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Mortgagee's interest in the Mortgaged Property, Mortgagor will pay such tax, with interest and penalties thereon, if any. In the event Mortgagee is advised by counsel chosen by it that the payment of such tax or interest and penalties by Mortgagor would be unlawful or taxable to Mortgagee or unenforceable or provide the basis for a defense of usury, then in any such event, Mortgagee shall have the option, upon not less than ninety (90) days written notice to Mortgagor, to declare the Debt immediately due and payable.

16. Financial Statements.

(a) Mortgagor shall keep accurate books and records of account and furnish to Mortgagee within twenty (20) days after the expiration of the following applicable periods: (i) a quarterly certified rent roll signed and dated by Mortgagor detailing the names of all tenants of the Improvements, the portion of the Improvements occupied by each tenant, the rent and any other charges payable under each Lease, and the term of each Lease; (ii) an annual operating statement of the Mortgaged Property detailing the total revenues received and total expenses incurred to be

prepared and certified by Mortgagor; (iii) a quarterly balance sheet and profit and loss statement of the Mortgagor prepared and certified by Mortgagor; and (iv) such annual and/or quarterly balance sheets and profit and loss statements and other financial statements as may, from time to time, be required by Mortgagee.

(b) Until the final sale of the Loan in a Secondary Market Transaction (hereinafter defined) has occurred, the Mortgagor shall furnish to Mortgagee within ten (10) days after request, the items set forth in clauses (i) through (iii) of Paragraph 16 (a) above for the most recent period (collectively, the "Pre-Securitization Financials"). In the event that Mortgagor fails to provide Mortgagee with Pre-Securitization Financials on or before the date they are due, and if such failure continues for five (5) business days following notice of same from Mortgagee, then, in addition to all other rights and remedies of Mortgagee hereunder, Mortgagor shall pay to Mortgagee, at Mortgagee's option and in its sole discretion, an amount equal to \$1,000 for each Pre-Securitization Financial that is not delivered.

17. Further Acts, Etc. Mortgagor shall observe and perform each and every term to be observed or performed by Mortgagor pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Mortgaged Property. Mortgagor will, at no cost or expense to Mortgagee, do any act or execute any additional documents as may be required by Mortgagee to confirm, protect or defend the lien of this Mortgage and any of the agreements set forth herein.

18. Recording of Mortgage, Etc. Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage, and any security instrument creating a lien or security interest or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien or security interest hereof upon, and the interest of Mortgagee in, the Mortgaged Property and pay all filing, registration or recording fees, and all expenses incident to the preparation, execution and acknowledgment of this Mortgage.

19. Events of Default. The Debt shall become immediately due and payable at the option of Mortgagee upon the happening of any one or more of the following events of default (each an "Event of Default"):

- (a) if any portion of the Debt is not paid when due;
- (b) if any of the Taxes or Other Charges are not paid when the same are due and payable;
- (c) if the Policies are not kept in full force and effect, or if the Policies are not delivered to Mortgagee upon request;
- (d) if Mortgagor effects a Transfer without Mortgagee's prior written consent;
- (e) if any representation or warranty of Mortgagor, or of any Guarantor, made herein or in any other Loan Document or in any certificate, report, financial statement or other instrument or document furnished to Mortgagee shall have been false or misleading in any material respect when made;

- (f) if Mortgagor or any Guarantor shall make an assignment for the benefit of creditors or if Mortgagor shall generally not be paying its debts as they become due;
- (g) if a receiver, liquidator or trustee of Mortgagor or of any Guarantor shall be appointed or if Mortgagor or any Guarantor shall be adjudicated a bankrupt or insolvent, or if any petition for bankruptcy, reorganization or arrangement pursuant to federal bankruptcy law, or any similar federal or state law, shall be filed by or against, consented to, or acquiesced in by, Mortgagor or any Guarantor or if any proceeding for the dissolution or liquidation of Mortgagor or any Guarantor shall be instituted; however, if such appointment, adjudication, petition or proceeding was involuntary and not consented to by Mortgagor or such Guarantor, upon the same not being discharged, stayed or dismissed within sixty (60) days;
- (h) if Mortgagor shall be in default under any other mortgage or security agreement covering any part of the Mortgaged Property whether it be superior or junior in lien to this Mortgage;
- (i) if the Mortgaged Property becomes subject to any mechanic's, materialman's or other lien except a lien for local real estate taxes and assessments not then due and payable;
- (j) if Mortgagor fails to cure properly any violations of laws or ordinances affecting or which may be interpreted to affect the Mortgaged Property within thirty (30) days after Mortgagor first receives notice of any such violations; provided, however, if such violation of laws or ordinances is reasonably susceptible of cure, but not within such thirty (30) day period, then Mortgagor may be permitted up to an additional sixty (60) days (or such lesser period of time as required by applicable law) to cure such default provided that Mortgagor diligently and continuously pursues such cure and provided further that Mortgagor promptly provides Mortgagee with a written report and evidence reasonably satisfactory to Mortgagee of the progress of Mortgagor's cure efforts from time to time as requested by Mortgagee;
- (k) except as permitted in this Mortgage, the alteration, improvement, demolition or removal of any of the Improvements without the prior consent of Mortgagee;
- (l) if Mortgagor shall continue to be in default under any term, covenant, or provision of the Note or any of the other Loan Documents, beyond applicable cure periods contained in those documents;
- (m) if Mortgagor fails to cure a default under any other term, covenant or provision of this Mortgage within thirty (30) days after Mortgagor first receives notice of any such default; provided, however, if such default is reasonably susceptible of cure, but not within such thirty (30) day period, then Mortgagor may be permitted up to an additional sixty (60) days (but in no event beyond the Maturity Date (as defined in the Note) to cure such default provided that Mortgagor diligently and continuously pursues such cure and provided further that Mortgagor promptly provides Mortgagee with a written report and evidence reasonably satisfactory to Mortgagee of the progress of Mortgagor's cure efforts from time to time as requested by Mortgagee;
- (n) if, without Mortgagee's prior written consent, (i) the Management Agreement is terminated, (ii) the ownership, management or control of Manager is transferred, (iii)

there is a material change in the Management Agreement, or (iv) if there shall be a material default by Mortgagor under the Management Agreement; or

(o) if Mortgagor ceases to continuously operate the Mortgaged Property or any material portion thereof as operated on the date hereof for any reason whatsoever (other than temporary cessation in connection with any repair or renovation thereof undertaken with the consent of Mortgagee).

20. Late Payment Charge. If any portion of the Debt is not paid on the date on which it is due, Mortgagor shall pay to Mortgagee upon demand an amount equal to the lesser of five percent (5%) of such unpaid portion of the Debt or the maximum amount permitted by applicable law in order to defray a portion of the expenses incurred by Mortgagee in handling and processing such delinquent payment and to compensate Mortgagee for the loss of the use of such delinquent payment, and such amount shall be secured by this Mortgage.

21. Right To Cure Defaults. Upon the occurrence of any Event of Default or if Mortgagor fails to make any payment or to do any act as herein provided, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, make or do the same in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Mortgaged Property for such purposes or appear in, defend, or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees and disbursements to the extent permitted by law), with interest at the Default Rate (as defined in the Note) for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee, shall constitute a portion of the Debt, shall be secured by this Mortgage and the other Loan Documents and shall be due and payable to Mortgagee upon demand.

22. Remedies.

(a) Upon the occurrence of any Event of Default, Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Mortgaged Property by Mortgagee itself or otherwise, including, without limitation, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

- (i) declare the entire Debt to be immediately due and payable;
- (ii) institute a proceeding or proceedings, judicial or nonjudicial, by advertisement or otherwise, for the complete foreclosure of this Mortgage in which case the Mortgaged Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (iii) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien of this Mortgage for the balance of the Debt not then due;

(iv) sell for cash or upon credit the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to the power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(v) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, or in any of the other Loan Documents;

(vi) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage;

(vii) take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage;

(viii) apply for the appointment of a trustee, receiver, liquidator or conservator of the Mortgaged Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of the Mortgagor, any Guarantor or of any person, firm or other entity liable for the payment of the Debt;

(ix) enforce Mortgagee's interest in the Leases and Rents and enter into or upon the Mortgaged Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and servants therefrom, and thereupon Mortgagee may (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Mortgaged Property and conduct the business thereat; (B) complete any construction on the Mortgaged Property in such manner and form as Mortgagee deems advisable; (C) make alterations, additions, renewals, replacements and improvements to or on the Mortgaged Property; (D) exercise all rights and powers of Mortgagor with respect to the Mortgaged Property, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents; and (E) apply the receipts from the Mortgaged Property to the payment of Debt, after deducting therefrom all expenses (including reasonable attorneys' fees and disbursements) incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, assessments, insurance and other charges in connection with the Mortgaged Property, as well as just and reasonable compensation for the services of Mortgagee, its counsel, agents and employees;

(x) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of any portion of the Mortgaged Property occupied by Mortgagor or any related and/or affiliated party and require Mortgagor to vacate and surrender possession to Mortgagee of the Mortgaged Property or to such receiver and, in default thereof, evict Mortgagor or any related and/or affiliated party by summary proceedings or otherwise; or

(xi) pursue such other rights and remedies as may be available at law or in equity or under the Uniform Commercial Code.

In the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien on the remaining portion of the Mortgaged Property.

(b) The proceeds of any sale made under or by virtue of this paragraph, together with any other sums which then may be held by Mortgagee under this Mortgage, whether under the provisions of this paragraph or otherwise, shall be applied by Mortgagee to the payment of the Debt in such priority and proportion as Mortgagee in its sole discretion shall deem proper.

(c) Mortgagee may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(d) Upon the completion of any sale or sales pursuant hereto, Mortgagee, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Any sale or sales made under or by virtue of this paragraph, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof from, through or under Mortgagor.

(e) Upon any sale made under or by virtue of this paragraph, whether made under a power of sale or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Debt the net sales price after deducting therefrom the expenses of the sale and costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage.

(f) No recovery of any judgment by Mortgagee and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Mortgagor shall affect in any manner or to any extent the lien of this Mortgage upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of Mortgagee hereunder, but such liens, rights, powers and remedies of Mortgagee shall continue unimpaired as before.

(g) Mortgagee may terminate or rescind any proceeding or other action brought in connection with its exercise of the remedies provided in this paragraph at any time before the conclusion thereof, as determined in Mortgagee's sole discretion and without prejudice to Mortgagee.

(h) The rights and remedies of Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. Mortgagee may resort to any remedies and the security given by the Note, this Mortgage or in any of the other Loan Documents in whole or in part, and in such portions and in such order as determined by Mortgagee in its sole discretion. No such action shall in any way be considered a

waiver or election of any rights, benefits or remedies evidenced or provided by the Note, this Mortgage or in any of the other Loan Documents. The failure of Mortgagee to exercise any right, remedy or option provided in the Note, this Mortgage or any of the other Loan Documents, shall not be deemed a waiver of such right, remedy or option or of any covenant or obligation secured by the Note, this Mortgage or any of the other Loan Documents. No acceptance by Mortgagee of any payment after the occurrence of any Event of Default and no payment by Mortgagee of any obligation for which Mortgagor is liable hereunder shall be deemed to waive or cure any Event of Default with respect to Mortgagor, or Mortgagor's liability to pay such obligation. No sale of all or any portion of the Mortgaged Property, no forbearance on the part of Mortgagee, and no extension of time for the payment of the whole or any portion of the Debt or any other indulgence given by Mortgagee to Mortgagor, shall operate to release or in any manner affect the interest of Mortgagee in the remaining Mortgaged Property or the liability of Mortgagor to pay the Debt. No waiver by Mortgagee shall be effective unless it is in writing and then only to the extent specifically stated. All costs and expenses of Mortgagee in exercising its rights and remedies under this Paragraph 22 (including reasonable attorneys' fees and disbursements to the extent permitted by law), shall be paid by Mortgagor immediately upon notice from Mortgagee, with interest at the Default Rate for the period after notice from Mortgagee and such costs and expenses shall constitute a portion of the Debt and shall be secured by this Mortgage.

(i) The interests and rights of Mortgagee under the Note, this Mortgage and the other Loan Documents shall not be impaired by any indulgence, including (i) any renewal, extension or modification which Mortgagee may grant with respect to any of the Debt, (ii) any surrender, compromise, release, renewal, extension, exchange or substitution which Mortgagee may grant with respect to the Mortgaged Property or any portion thereof; or (iii) any release or indulgence granted to any maker, endorser, Guarantor or surety of any of the Debt.

(j) In the event the Loan is repaid in whole or in part in connection with the exercise by Mortgagee of any of its remedies hereunder upon the occurrence of an Event of Default (including, without limitation, a foreclosure sale of the Property) and such repayment occurs prior to the Optional Repayment Date, then Mortgagor shall be required to pay Mortgagee, in addition to such repayment, accrued interest and all other sums due under this Mortgage, the Proportionate Yield Maintenance Premium.

23. Right of Entry. In addition to any other rights or remedies granted under this Mortgage, Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property at any reasonable time during the Term. The cost of such inspections or audits shall be borne by Mortgagor should Mortgagee determine that an Event of Default exists, including the cost of all follow up or additional investigations or inquiries deemed reasonably necessary by Mortgagee. The cost of such inspections, if not paid for by Mortgagor following demand, may be added to the Debt and shall bear interest thereafter until paid at the Default Rate.

24. Security Agreement. This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Mortgaged Property. Mortgagor by executing and delivering this Mortgage has granted and hereby grants to Mortgagee, as security for the Debt, a

security interest in the Mortgaged Property to the full extent that the Mortgaged Property may be subject to the Uniform Commercial Code (said portion of the Mortgaged Property so subject to the Uniform Commercial Code being called in this paragraph the "Collateral"). This Mortgage shall also constitute a "fixture filing" for the purposes of the Uniform Commercial Code. As such, this Mortgage covers all items of the Collateral that are or are to become fixtures. Information concerning the security interest herein granted may be obtained from the parties at the addresses of the parties set forth in the first paragraph of this Mortgage. If an Event of Default shall occur, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Mortgagee, Mortgagor shall at its expense assemble the Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Mortgagor shall pay to Mortgagee on demand any and all expenses, including attorneys' fees and disbursements, incurred or paid by Mortgagee in protecting its interest in the Collateral and in enforcing the rights hereunder with respect to the Collateral. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its sole discretion shall deem proper. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact, coupled with an interest, to file with the appropriate public office on its behalf any financing or other statements signed only by Mortgagee, as secured party, in connection with the Collateral covered by this Mortgage.

25. Actions and Proceedings. Mortgagee has the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of Mortgagor, which Mortgagee, in its sole discretion, decides should be brought to protect its interest in the Mortgaged Property. Mortgagee shall, at its option, be subrogated to the lien of any mortgage or other security instrument discharged in whole or in part by the Debt, and any such subrogation rights shall constitute additional security for the payment of the Debt.

26. Marshaling and Other Matters. Mortgagor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshaling in the event of any sale hereunder of the Mortgaged Property or any part thereof or any interest therein. Further, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law.

27. Hazardous Substances. Mortgagor hereby represents and warrants to Mortgagee that, to the best of Mortgagor's knowledge: (a) the Mortgaged Property is not in violation

of any local, state, federal or other governmental authority, statute, ordinance, code, order, decree, law, permits, rule or regulation pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or clean-up including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), the Resource Conservation and Recovery Act, as amended ("RCRA"), the Emergency Planning and Community Right-to-Know Act of 1986, as amended, the Hazardous Substances Transportation Act, as amended, the Solid Waste Disposal Act, as amended, the Clean Water Act, as amended, the Clean Air Act, as amended, the Toxic Substance Control Act, as amended, the Safe Drinking Water Act, as amended, the Occupational Safety and Health Act, as amended, any state super-lien and environmental clean-up statutes and all regulations adopted in respect to the foregoing laws (collectively, "Environmental Laws"); (b) the Mortgaged Property is not subject to any private or governmental lien or judicial or administrative notice or action or inquiry, investigation, claim or threatened claim relating to hazardous and/or toxic, dangerous and/or regulated, substances, wastes, materials, raw materials which include hazardous constituents, pollutants or contaminants including without limitation, petroleum, tremolite, anthlophyllie, actinolite or polychlorinated biphenyls and any other substances or materials which are included under or regulated by Environmental Laws or which are considered by scientific opinion to be otherwise dangerous in terms of the health, safety and welfare of humans (collectively, "Hazardous Substances"); (c) no Hazardous Substances are or have been (including the period prior to Mortgagor's acquisition of the Mortgaged Property), discharged, generated, treated, disposed of or stored on, incorporated in, or removed or transported from the Mortgaged Property other than in compliance with all Environmental Laws; (d) no Hazardous Substances are present in, on or under any nearby real property which could migrate to or otherwise affect the Mortgaged Property; and (e) no underground storage tanks exist on any of the Mortgaged Property.

28. Indemnification. In addition to any other indemnifications provided herein or in the other Loan Documents, Mortgagor shall protect, defend, indemnify and save harmless Mortgagee from and against all liabilities, obligations, claims, demands, damages, penalties, causes of action, losses, fines, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements), imposed upon or incurred by or asserted against Mortgagee by reason of (a) ownership of this Mortgage, the Mortgaged Property or any interest therein or receipt of any Rents; (b) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) any use, nonuse or condition in, on or about the Mortgaged Property or any part thereof or on adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof; (f) the presence, disposal, escape, seepage, leakage, spillage, discharge, emission, release, or threatened release of any Hazardous Substance or asbestos on, from, or affecting the Mortgaged Property; (g) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substance or asbestos; (h) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substance or asbestos; (i) any violation of the Environmental Laws, which are based upon or in any way related to such Hazardous Substance

or asbestos including, without limitation, the costs and expenses of any remedial work with respect to Hazardous Substances or asbestos, attorney and consultant fees and disbursements, investigation and laboratory fees, court costs, and litigation expenses; (j) any failure of the Mortgaged Property to comply with any laws, codes and regulations applicable to the Mortgaged Property; (k) any representation or warranty made in the Note, this Mortgage or any of the other Loan Documents being false or misleading in any material respect as of the date such representation or warranty was made; (l) any claim by brokers, finders or similar persons claiming to be entitled to a commission in connection with any Lease or other transaction involving the Mortgaged Property or any part thereof under any legal requirement or any liability asserted against Mortgagee with respect thereto; and (m) the claims of any lessee of any or any portion of the Mortgaged Property or any person acting through or under any lessee or otherwise arising under or as a consequence of any Lease. Any amounts payable to Mortgagee by reason of the application of this paragraph shall be secured by this Mortgage and shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Mortgagee until paid. The obligations and liabilities of Mortgagor under this Paragraph 28 shall survive the termination, satisfaction, or assignment of this Mortgage and the exercise by Mortgagee of any of its rights or remedies hereunder, including, but not limited to, the acquisition of the Mortgaged Property by foreclosure or a conveyance in lieu of foreclosure.

29. Notices. Any notice, report, demand or other instrument authorized or required to be given or furnished ("Notices") shall be in writing and shall be given as follows: (a) by hand delivery; (b) by deposit in the United States mail as first class certified mail, return receipt requested, postage paid; (c) by overnight nationwide commercial courier service; or (d) by telecopy transmission (other than for notices of default) with a confirmation copy to be delivered by duplicate notice in accordance with any of clauses (a)-(c) above, in each case, addressed to the party intended to receive the same at the following address(es):

Mortgagee: UBS WARBURG REAL ESTATE INVESTMENTS INC.
1285 Avenue of the Americas, 11th floor
New York, New York 10019
Attention: Robert Pettinato, Esq.
Telecopier:(212) 713-2099

with copies to: First Union National Bank
8739 Research Drive
Charlotte, NC 28288-1075
Attention: Jason Todd

Mortgagor: Alabaster CVS LLC
1852 Noel Place
Beverly Hills, California 90210
Attention: Stuart Hillman
Telecopier: (310) 275-8108

Any party may change the address to which any such Notice is to be delivered, by furnishing ten (10) days written notice of such change to the other parties in accordance with the provisions of this Paragraph 29. Notices shall be deemed to have been given on the date they are actually received; provided, that the inability to deliver Notices because of a changed address of which no Notice was given, or rejection or refusal to accept any Notice offered for delivery shall be deemed to be receipt of the Notice as of the date of such inability to deliver or rejection or refusal to accept delivery. Notice for either party may be given by its respective counsel. Additionally, notice from Mortgagee may also be given by the Servicer.

30. Non-Waiver. The failure of Mortgagee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Mortgage. Any consent or approval by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent or approval in any like matter arising at a subsequent date.

31. No Oral Change. This Mortgage, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Mortgagor or Mortgagee, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

32. Liability. If Mortgagor consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. Subject to the provisions hereof requiring Mortgagee's consent to any Transfer, this Mortgage shall be binding upon and inure to the benefit of Mortgagor and Mortgagee and their respective successors and assigns forever.

33. Inapplicable Provisions. If any term, covenant or condition of the Note or this Mortgage is held to be invalid, illegal or unenforceable in any respect, the Note and this Mortgage shall be construed without such provision.

34. Headings, Etc. The headings and captions of various paragraphs of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

35. Duplicate Originals. This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

36. Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in singular or plural form and the word "Mortgagor" shall mean "each Mortgagor and any subsequent owner or owners of the Mortgaged Property or any part thereof or any interest therein," the word "Mortgagee" shall mean "Mortgagee and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Mortgage," the word "person" shall include an individual, corporation, limited liability company, partnership, trust, unincorporated association, government, governmental authority, and any other entity, the words "Mortgaged Property" shall include any portion of the Mortgaged Property and any interest therein and the words "attorneys' fees" shall include any and all attorneys' fees, paralegal and law clerk fees, including, without limitation, fees at the pre-trial, trial and appellate levels incurred or paid by Mortgagee in protecting its interest in the Mortgaged Property and Collateral and enforcing its rights hereunder. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

37. Homestead. Mortgagor hereby waives and renounces all homestead and exemption rights provided by the Constitution and the laws of the United States and of any state, in and to the Mortgaged Property as against the collection of the Debt, or any part hereof.

38. Assignments. Mortgagee shall have the right to assign or transfer its rights under this Mortgage without limitation. Any assignee or transferee shall be entitled to all the benefits afforded Mortgagee under this Mortgage.

39. Waiver of Jury Trial. **MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE NOTE, THIS MORTGAGE, OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH.**

40. Miscellaneous.

(a) Mortgagor covenants and agrees that during the Term, unless Mortgagee shall have previously consented in writing, (a) Mortgagor will take no action that would cause it to become an "employee benefit plan" as defined in 29 C.F.R. Section 2510.3-101, or "assets of a governmental plan" subject to regulation under the state statutes, and (b) Mortgagor will not sell, assign or transfer the Mortgaged Property, or any portion thereof or interest therein, to any transferee that does not execute and deliver to Mortgagee its written assumption of the obligations of this covenant.

(b) The Loan Documents contain the entire agreement between Mortgagor and Mortgagee relating to or connected with the Loan. Any other agreements relating to or connected with the Loan not expressly set forth in the Loan Documents are null and void and superseded in their entirety by the provisions of the Loan Documents.

(c) Mortgagor represents and warrants to Mortgagee that there has not been committed by Mortgagor or any other person in occupancy of or involved with the operation or use of the Mortgaged Property any act or omission affording the federal government or any state or local government the right of forfeiture as against the Mortgaged Property or any part thereof or any monies paid in performance of Mortgagor's obligations under the Note or under any of the other Loan Documents.

(d) This Mortgage shall be governed by and construed in accordance with the laws of the State in which the Premises are located and the applicable laws of the United States of America. This Mortgage has been negotiated by parties knowledgeable in the matters contained herein, with the advice of counsel, and is to be construed and interpreted in absolute parity, and shall not be construed or interpreted against any party by reason of such party's preparation of the initial or any subsequent draft of the Loan Documents or this Mortgage.

(e) This Mortgage may be executed in two or more counterparts, each of which shall constitute an original but all of which together shall constitute but one and the same instrument.

41. Limitation on Mortgagor's Liability. Anything contained in this Mortgage to the contrary notwithstanding, the liability of Mortgagor for the Debt and for the performance of all other agreements, covenants and obligations contained herein and in the Loan Documents shall be limited as set forth in Paragraph 10 of the Note.

42. Defeasance.

(a) Provided no Event of Default has occurred and is continuing, at any time after the date which (i) is two years after the "startup day," within the meaning of Section 860G(a)(9) of the Internal Revenue Code of 1986, as amended from time to time or any successor statute (the "Code"), of a "real estate mortgage investment conduit," within the meaning of Section 860D of the Code, that holds the Note or (ii) is four years after the date hereof, whichever shall first occur, and before the Optional Prepayment Date (as defined in the Note), Mortgagor may cause the release of the Mortgaged Property from the lien of this Mortgage and the other Loan Documents upon the satisfaction of the following conditions:

(i) not less than thirty (30) days prior written notice shall be given to Mortgagee specifying a date (the "Release Date") on which the Defeasance Collateral (as hereinafter defined) is to be delivered, such Release Date only to occur on a Payment Date (as defined in the Note);

(ii) all accrued and unpaid interest and all other sums due under the Note and under the other Loan Documents up to the Release Date, including, without limitation, all costs and expenses incurred by Mortgagee or its agents in connection with such release (including, without limitation, the fees and expenses incurred by attorneys and accountants in connection with the review of the proposed Defeasance Collateral and the preparation of the

Defeasance Security Agreement (as hereinafter defined) and related documentation), shall be paid in full on or prior to the Release Date; and

(iii) Mortgagor shall deliver to Mortgagee on or prior to the Release Date:

(A) an amount equal to that which is sufficient to purchase direct, non-callable obligations of the United States of America that provide for payments (1) on or prior to, but as close as possible to, all successive scheduled Payment Dates after the Release Date through the Maturity Date, and (2) in amounts equal to or greater than the Monthly Debt Service Payment Amount required under the Note through the Maturity Date together with payment in full of the unpaid principal balance of the Note as of the Maturity Date (the "Defeasance Collateral"), each of which shall be duly endorsed by the holder thereof as directed by Mortgagee or accompanied by a written instrument of transfer in form and substance wholly satisfactory to Mortgagee (including, without limitation, such instruments as may be required by the depository institution holding such securities to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to create a first priority security interest therein in favor of the Mortgagee in conformity with all applicable state and federal laws governing granting of such security interests;

(B) a pledge and security agreement, in form and substance satisfactory to Mortgagee in its sole discretion, creating a first priority security interest in favor of Mortgagee in the Defeasance Collateral (the "Defeasance Security Agreement"), which shall provide, among other things, that any excess received by Mortgagee from the Defeasance Collateral over the amounts payable by Mortgagor hereunder shall be refunded to Mortgagor promptly after each Payment Date;

(C) a certificate of Mortgagor certifying that all of the requirements set forth in this Paragraph 42 have been satisfied;

(D) an opinion of counsel for Mortgagor in form and substance and delivered by counsel satisfactory to Mortgagee in its sole discretion stating, among other things, that (1) Mortgagee has a perfected first priority security interest in the Defeasance Collateral and that the Defeasance Security Agreement is enforceable against Mortgagor in accordance with its terms; and (2) that any REMIC Trust formed pursuant to a Securitization will not fail to maintain its status as a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code as a result of such defeasance;

(E) Mortgagor shall deliver evidence in writing from the applicable Rating Agencies to the effect that the collateral substitution will not result in a downgrading, withdrawal or qualification of the respective ratings in effect immediately prior to such defeasance event for any securities issued in connection with the Securitization which are then outstanding;

(F) a certificate from a firm of independent public accountants acceptable to Mortgagee certifying that the Defeasance Collateral is sufficient to satisfy the provisions of subparagraph A above; and

(G) such other certificates, documents or instruments as Mortgagee may reasonably require.

In connection with the conditions set forth in subparagraph (a)(iii) above, Mortgagor hereby appoints Mortgagee as its agent and attorney in fact for the purpose of using the amounts delivered pursuant to subparagraph 47(a)(iii)(A) above to purchase the Defeasance Collateral.

(b) Upon compliance with the requirements of this paragraph, the Mortgaged Property shall be released from the lien of the this Mortgage and the other Loan Documents, and the Defeasance Collateral shall constitute the only collateral which shall secure the Note and all other obligations under the Loan Documents. Mortgagee will, at Mortgagor's expense, execute and deliver any agreements reasonably requested by Mortgagor to release the lien of this Mortgage from the Mortgaged Property. Mortgagor, pursuant to the Defeasance Security Agreement, shall authorize and direct that the payments received from Defeasance Collateral be made directly to Mortgagee and applied to satisfy the obligations of the Mortgagor under the Note, including payment in full of the unpaid principal balance of the Note as of the Maturity Date.

(c) Upon the release of the Mortgaged Property in accordance with this paragraph, Mortgagor may, or at option of Mortgagee shall, assign all its obligations under the Note, together with the pledged Defeasance Collateral, to a successor entity designated by Mortgagor and approved by Mortgagee in its sole discretion. Such successor entity shall execute an assumption agreement in form and substance satisfactory to Mortgagee in its sole discretion pursuant to which it shall assume Mortgagor's obligations under the Note and the Defeasance Security Agreement. As conditions to such assignment and assumption, Mortgagor shall (i) deliver to Mortgagee an opinion of counsel in form and substance and delivered by counsel satisfactory to Mortgagee in its sole discretion stating, among other things, that such assumption agreement is enforceable against Mortgagor and such successor entity in accordance with its terms and that the Note, the Defeasance Security Agreement and the other Loan Documents, as so assumed, are enforceable against such successor entity in accordance with their respective terms, and (ii) pay all costs and expenses incurred by Mortgagee or its agents in connection with such assignment and assumption (including, without limitation, the review of the proposed transferee and the preparation of the assumption agreement and related documentation). Upon such assumption, Mortgagor shall be relieved of its obligations hereunder, under the other Loan Documents and under the Defeasance Security Agreement other than those obligations which are specifically intended to survive the termination, satisfaction or assignment of this Mortgage or the exercise of Mortgagee's rights and remedies hereunder.

(d) Upon the release of the Mortgaged Property in accordance with this paragraph, Mortgagor shall have no further right to prepay the Note pursuant to the other provisions of this paragraph or otherwise. In connection with the conditions set forth in subparagraph (a)(iii)(A) above, Mortgagor hereby appoints Mortgagee as its agent and attorney-in-fact for the purpose of purchasing the Defeasance Collateral with funds provided by the Mortgagor. Mortgagor shall pay any and all expenses incurred in the purchase of the Defeasance Collateral and any revenue, documentary stamp or intangible taxes or any other tax or charge due in connection with the transfer of the Note or otherwise required to accomplish the agreements of this paragraph.

43. Yield Maintenance. In the event of an Unscheduled Loan Prepayment (as defined below) where Mortgagor is required, pursuant to the provisions of Paragraph 3(c)(ii), Paragraph 8(d) or Paragraph 22(j), to pay a Proportionate Yield Maintenance Premium, the following terms shall have the following meanings:

(a) "Proportionate Yield Maintenance Premium" shall mean the product of (a) the Yield Maintenance Premium multiplied by (b) the Prepayment Percentage.

(b) "Yield Maintenance Premium" shall mean, with respect to any Unscheduled Loan Prepayment (as defined below), an amount which, when added to the outstanding principal balance of the Note immediately prior to such Unscheduled Loan Prepayment, would be sufficient to purchase direct non-callable obligations of the United States of America which provide payments (a) on or prior to, but as close as possible to, all successive scheduled payment dates under the Note through the Maturity Date and (b) in amounts equal to the Monthly Debt Service Payment Amount required under the Note through the Maturity Date together with the outstanding principal balance of the Note as of the Maturity Date. In no event shall the Yield Maintenance Premium be less than zero.

(c) "Prepayment Percentage" shall mean, with respect to any Unscheduled Loan Prepayment, the percentage of the then current outstanding principal balance of the Note that is being prepaid.

(d) "Unscheduled Loan Prepayment" shall mean any principal prepayment of the Note prior to the Maturity Date other than the portion of each Monthly Debt Service Payment Amount (as defined in the Note) which comprises a principal payment. An Unscheduled Loan Prepayment shall include, without limitation, (i) a paydown of the Loan (in whole or in part) prior to the Maturity Date as a result of an Insured Casualty pursuant to Paragraph 3(c)(ii) of this Mortgage if an Event of Default, or an event which, with notice and/or the passage of time or both, would constitute an Event of Default, has occurred (but not otherwise), (ii) a paydown of the Loan (in whole or in part) prior to the Maturity Date as a result of a Condemnation pursuant to Paragraph 8(d) of this Mortgage if an Event of Default, or an event which, with notice and/or the passage of time or both, would constitute an Event of Default, has occurred (but not otherwise) and (iii) a paydown of the Loan (in whole or in part) in connection with the exercise by Mortgagee of any of its remedies under this Mortgage upon the occurrence of an Event of Default, including, without limitation, a foreclosure sale of the Mortgaged Property.

44. Sale of Notes and Securitization.

(a) Mortgagor acknowledges that Mortgagee and its successors and assigns may (i) sell this Mortgage, the Note and other Loan Documents to one or more investors as a whole loan, (ii) participate the Loan secured by this Mortgage to one or more investors, (iii) deposit this Mortgage, the Note and other Loan Documents with a trust, which trust may sell certificates to investors evidencing an ownership interest in the trust assets, or (iv) otherwise sell the Loan or interest therein to investors (the transactions referred to in clauses (i) through (iv) are hereinafter each referred to as "Secondary Market Transaction" or "Securitization"). Mortgagor shall cooperate with Mortgagee in effecting any such Secondary Market Transaction and shall cooperate to implement all requirements imposed by any Rating Agency involved in any Secondary Market

Transaction. Mortgagor, however, shall not be required to modify any documents evidencing or securing the Loan which would modify (A) the interest rate payable under the Note, (B) the stated maturity of the Note, (C) the amortization of principal of the Note, (D) the non-recourse provisions of the Loan or (E) any other material economic term of the Loan. Mortgagor shall provide such information, legal opinions and documents relating to Mortgagor, Guarantor, if any, the Mortgaged Property and any tenants of the Improvements as Mortgagee may reasonably request in connection with such Secondary Market Transaction. In addition, Mortgagor shall make available to Mortgagee all information concerning its business and operations that Mortgagee may reasonably request. Mortgagee shall be permitted to share all such information with the investment banking firms, Rating Agencies, accounting firms, law firms and other third-party advisory firms involved with the Loan and the Loan Documents or the applicable Secondary Market Transaction. It is understood that the information provided by Mortgagor to Mortgagee may ultimately be incorporated into the offering documents for the Secondary Market Transaction and thus various investors may also see some or all of the information.

(b) In the event that the provisions of this Mortgage or any Loan Documents require the receipt of written confirmation from each Rating Agency with respect to the ratings on the Securities, or, in accordance with the terms of the transaction documents relating to a Secondary Market Transaction, such a rating confirmation is required in order for the consent of the Mortgagee to be given, the Mortgagor shall pay all of the costs and expenses of the Mortgagee, Servicer and each Rating Agency in connection therewith, and, if applicable, shall pay any fees imposed by any Rating Agency as a condition to the delivery of such confirmation.

45. Servicer. At the option of Mortgagee, the Loan may be serviced by a servicer/trustee (the "Servicer") selected by Mortgagee and Mortgagee may delegate all or any portion of its responsibilities under this Mortgage and the other Loan Documents to the Servicer pursuant to a servicing agreement (the "Servicing Agreement") between Mortgagee and Servicer. Mortgagor shall be responsible for any reasonable set-up fees or any other initial costs relating to or arising under the Servicing Agreement.

46. Alabama State Provisions. Notwithstanding anything set forth in this Mortgage, upon the occurrence of any Event of Default, or at any time thereafter, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages and Mortgagee shall be authorized, at its option whether or not possession of the Mortgaged Property is taken, after giving notice by publication once a week for three consecutive weeks of time, place and terms of each such sale, together with a description of the property then to be sold, by publication in a newspaper published in the county or counties wherein the Mortgaged Property or any part thereof is located, to sell the Mortgaged Property (or such part or parts thereof as Mortgagee may from time to time elect to sell) in front of such county's courthouse door, at public outcry, to the highest bidder. Mortgagee, its successors and assigns, may bid at any sale or sales held under the terms of this Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one

total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any portion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all of the Debt shall have been paid in full. Upon payment of the purchase money for any parcel or parcels sold pursuant to this Paragraph 46, Mortgagee, or Mortgagee's agent, may execute to the purchaser of said parcel(s) a deed to the parcel(s) so purchased. Mortgagor does hereby grant unto Mortgagee the full and complete power of sale in accordance with the foregoing provisions.

- (a) The proceeds of any foreclosure sale provided for hereinabove shall be applied as follows, to the extent not prohibited by the Uniform Commercial Code:
 - (1) First, to the costs and expenses of retaking, holding, storing and processing the Mortgaged Property, preparing the Mortgaged Property for sale, and making the sale;
 - (2) Second, to the repayment of any money which Lender may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, or debts as hereinabove provided, and as may be provided in the Notes or the other Loan Documents;
 - (3) Third, to the payment in full of the indebtedness secured hereby, whether the same shall or shall not have full matured at the date of said sale, but no interest shall be collected beyond the day of sale;
 - (4) Fourth, the balance, if any, shall be paid as provided by law.
- (b) To the extent that the Uniform Commercial Code prohibits the application of the proceeds of a foreclosure of any Mortgaged Property pursuant to the foregoing subsections, then the proceeds of such a foreclosure shall be governed by the Uniform Commercial Code.

This instrument prepared by::

Steven A. Brickman

Sirote & Permutt, P.C.

2311 Highland Avenue South

Birmingham, Alabama 35205

(205) 930-5171

(Signature page follows)

IN WITNESS WHEREOF, Mortgagor has executed this instrument the day and year first above written.

MORTGAGOR:
ALABASTER CVS, LLC,
an Alabama limited liability company

By: 

Name: Stuart S. Hillman

Title: Manager

State of California)

County of Los Angeles)

I, the undersigned Notary Public, in and for said county, in said State, hereby certify that Stuart S. Hillman, proven to me on the basis of satisfactory evidence to be the person whose name as Manager of ALABASTER CVS, LLC, an Alabama limited liability company, is signed to the foregoing agreement, acknowledged before me on this day that, being informed of the contents of said agreement, he as such manager, and with full authority, executed the same voluntarily, as an act of said company.

Given under my hand and official seal, this the 17 day of August 2001.

Klamaria A. Grogan

NOTARY PUBLIC

My commission expires May 3, 2005



EXHIBIT A

LEGAL DESCRIPTION

All of that certain lot, piece of parcel of land, with the buildings and improvements thereon, situate, lying and being:

Lot 1, according to the Survey of CVS Addition to Alabaster as recorded in Map Book 25, Page 58, in the Office of the Judge of Probate of Shelby County, Alabama.

Inst # 2001-36142

08/23/2001-36142
11:40 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
039 MSB 2228.00