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Shelby Cnty Judge of Probate, AL  
03/11/2005 07:59:47AM FILED/CERT

19,000,000.00

[SPACE ABOVE LINE FOR RECORDER'S USE ONLY]

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
Latham & Watkins LLP  
885 Third Avenue  
New York, New York 10022-4802  
Attn: Corrie Peach, Senior Paralegal

**MODIFICATION OF MORTGAGE, ASSIGNMENT OF RENTS AND LEASES,  
SECURITY AGREEMENT AND FIXTURE FILING**

This MODIFICATION OF MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (as the same may be amended, modified, supplemented or extended, from time to time, this "Modification"), is executed as of February 28, 2005, by THCI COMPANY LLC, a Delaware limited liability company ("Mortgagor"), whose address for notice hereunder is c/o Care Realty, L.L.C., Continental Plaza, 411 Hackensack Avenue, 7<sup>th</sup> Floor, Hackensack, New Jersey 07601 and CITIGROUP GLOBAL MARKETS REALTY CORP. (f/k/a Salomon Brothers Realty Corp.), a New York corporation ("Mortgagee"), whose address for notice hereunder is 388 Greenwich Street, New York, New York 10013.

WITNESSETH:

WHEREAS, on March 30, 2001, Mortgagee, as Agent and initial Lender (in such capacity, "Agent"), made a loan (the "Tranche 1 Loan") in the amount of Thirty Four Million Eight Hundred Ten Thousand Five Hundred Thirty Four and No/Dollars (\$34,810,534), to THCI Holding Company LLC, THCI Mortgage Holding Company LLC, THCI of California LLC and Wethersfield THCI Holding Company LLC (the "Tranche 1 Borrowers"), pursuant to that certain Loan Agreement, dated as of March 30, 2001, by and among the Tranche 1 Borrowers, Agent and LaSalle Bank National Association, a national banking association, as Collateral Agent ("Collateral Agent"), as the same has been amended, modified, supplemented and extended from time to time (the "Tranche 1 Loan Agreement");

WHEREAS, contemporaneously with the making of the Tranche 1 Loan, Agent, as initial lender, made a loan (the "Tranche 2 Loan") in the amount of Seven Million One Hundred Fifty One Thousand Eight Hundred Seventy One and No/Dollars (\$7,151,871) to San Joaquin Health Care Associates Limited Partnership (the "Tranche 2 Borrower"), pursuant to that certain Loan Agreement, dated as of March 30, 2001, by and among the Tranche 2 Borrower, Lender and Collateral Agent, as the same has been amended, modified, supplemented and extended from time to time (the "Tranche 2 Loan Agreement");

WHEREAS, contemporaneously with the making of the Tranche 1 Loan and the Tranche 2 Loan, Agent, as initial Lender, made a loan (the "Tranche 3 Loan"; together with the Tranche 1 Loan and the Tranche 2 Loan, the "Original Loans") in the amount of Two Hundred Fifty Five Million Thirty Seven Thousand Five Hundred Ninety Five and No/Dollars (\$255,037,595), to THCI Company LLC, THCI of Massachusetts LLC, Kentfield THCI Holding Company LLC, and THCI Holding Company LLC (the "Tranche 3 Borrowers"; together with the Tranche 1 Borrowers and the Tranche 2 Borrower, the "Original Borrowers"), pursuant to that certain Loan Agreement, dated as of March 30, 2001, by and among the Tranche 3 Borrowers, Agent and Collateral Agent, as the same has been amended, modified, supplemented and extended from time to time (the "Tranche 3 Loan Agreement"; together with the Tranche 1 Loan Agreement and the Tranche 2 Loan Agreement, the "Original Loan Agreements");

WHEREAS, in order to secure certain of the obligations of Borrower (defined below) under the Tranche 1 Loan Agreement and the Tranche 3 Loan Agreement, Mortgagor executed and delivered to Mortgagee that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated as of March 30, 2001, and filed and recorded on May 3, 2001 in Instrument 2001-17413 with the Probate Office, Shelby County, Alabama (the "Original Mortgage"), covering all of Mortgagor's right, title and interest in and to certain land, buildings and improvements, and collateral as more particularly described therein affecting or relating to the Mortgaged Property more particularly described on Exhibit "A" attached hereto;

WHEREAS, subsequent to the date of the making of the Original Loans, one or more of the Original Borrowers have repaid a portion of the Original Loans to Agent, but the remaining balance of the Original Loans remains secured by, among other things, the Original Mortgage;

WHEREAS, Agent and THCI Company LLC, THCI Holding Company LLC, THCI Mortgage Holding Company LLC, Wethersfield THCI Holding Company LLC and the companies listed on Annex 1 of the Loan Agreement (as defined below) (collectively, the "Borrower") each have agreed to (i) amend and restate the Original Loans in their entirety into one single loan (the Original Loans, as so amended and restated, the "Loan") as provided in the Loan Agreement (as defined below); and (ii) amend and restate the Original Loan Agreements in their entirety into one single loan agreement, in order to inter alia, increase the interest rate, reduce the maximum original principal amount of the Loan to SIXTY EIGHT MILLION AND NO/100 DOLLARS (\$68,000,000), extend the term and amend the Collateral serving as security for the Loan (which Collateral continues to include the Original Mortgage as modified hereby) (the Original Loan Agreements, as so amended and restated, as the same may be further supplemented, amended, modified or extended from time to time, the "Loan Agreement"; capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Loan Agreement);

WHEREAS, in order to evidence the Loan, Borrower executed and delivered to Agent the Amended and Restated Promissory Note, dated as of the date hereof (the “Note”); and

WHEREAS, Mortgagor will derive substantial economic benefits from the execution of the Loan Agreement.

WHEREAS, Mortgagor and Mortgagee desire to modify the Original Mortgage pursuant to the terms of this Modification to give notice that the Original Mortgage, as modified hereby, secures, among other things, all the Mortgagor’s Obligations (as such term is defined in the Original Mortgage) under the Loan Agreement, and to confirm that the Original Mortgage remains in full force and effect, as modified by this Modification.

NOW, THEREFORE, in consideration of the foregoing and the payment of Ten Dollars (\$10) and other good and valuable consideration the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree and give notice as follows:

1. All of the foregoing recitals are acknowledged by Mortgagor as being true and correct and shall be deemed incorporated by reference herein. Mortgagor hereby acknowledges and agrees that the Original Mortgage, as amended and modified hereby, secures all Obligations of the Mortgagor under the Loan Agreement and all indebtedness evidenced by the Note. From and after the date hereof, all references in the Original Mortgage to the “Loan Agreement” shall mean the Loan Agreement as defined herein. From and after the date hereof, all references in the Original Mortgage to the “Loan” and the “Note” shall mean the Loan and Note, respectively, as described in the Loan Agreement.

2. The Original Mortgage, as amended and modified by this Modification, cannot be further altered, amended, modified, terminated, waived, released or discharged except in a writing signed by the parties hereto or their respective successors or assigns. Any future amendment or modification of the Loan Documents or any of Mortgagor’s obligations thereunder may or may not be recorded. All holders of any interest or claim that affects all or any portion of the Mortgaged Property or any estate or interest therein, which interest or claim is recorded after the date the Original Mortgage was originally recorded or that is otherwise or is intended to be junior and subordinate to the lien of the Original Mortgage (collectively, “Junior Lien Claimants”), are hereby placed on notice of the possibility that the Loan Documents or the Obligations may be amended but any such amendment may or may not be placed of record. Any such amendment shall be fully effective whether or not recorded, without thereby impairing or reducing the priority of the lien of the Original Mortgage as to the amounts secured thereby or constituting a novation. Junior Lien Claimants should not assume they will be notified of any amendment of the Loan Documents or of the Obligations that occur before or after the recording of their lien. By accepting their interest in the Mortgaged Property, Junior Lien Claimants acknowledge and consent to the foregoing.

3. As modified herein, the terms of the Original Mortgage shall continue in full force and effect. Notwithstanding anything to the contrary contained in this Modification, if at any time it is determined that the lien, validity or security of the Modification is impaired or

subordinated as a result of the modifications contemplated hereby (the “Modifications”), then the Original Mortgage shall be construed as if such Modifications had never taken place and the original terms of the Original Mortgage as unmodified hereby (other than the Modification set forth in the last two sentences of Section 1 above) shall continue in full force and effect and the Mortgagee shall maintain all legal or equitable priorities which were in existence before the date of execution of this Modification. It is understood by and is the intention of the parties hereto that any legal or equitable priorities of the Mortgagee over any party which were in existence before the date of execution of this Modification shall remain in effect after the execution of this Modification.

4. As modified herein, the Original Mortgage remains in full force and effect. Any inconsistency between this Modification and the Original Mortgage shall be resolved in favor of this Modification, whether or not this Modification specifically modifies the particular provision(s) in the Original Mortgage inconsistent with this Modification.

5. The execution, delivery and effectiveness of this Modification shall not operate as a waiver of any defaults by Mortgagor, or any of Mortgagor’s obligations under the Original Mortgage or of Mortgagee’s rights and remedies under the Original Mortgage, at law or at equity.

6. This Modification may be executed in any number of counterparts, and all such counterparts shall together constitute the same agreement.

7. THE LOAN AGREEMENT AND THE NOTE PROVIDE THAT THEY ARE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. THIS MODIFICATION SHALL ALSO BE CONSTRUED UNDER AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. NOTWITHSTANDING THE PARTIES’ CHOICE OF NEW YORK LAW, HOWEVER, (I) THE TERMS AND PROVISIONS OF THIS MODIFICATION PERTAINING TO THE PRIORITY, ENFORCEMENT OR REALIZATION BY MORTGAGEE OF ITS RESPECTIVE RIGHTS AND REMEDIES UNDER THIS MODIFICATION WITH RESPECT TO THE MORTGAGED PROPERTY SHALL BE GOVERNED AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAW OF THE STATE IN WHICH THE LAND IS LOCATED (THE “STATE”) WITHOUT GIVING EFFECT TO THE CONFLICTS-OF-LAW RULES AND PRINCIPLES OF THE STATE; (II) MORTGAGOR AGREES THAT TO THE EXTENT DEFICIENCY JUDGMENTS ARE AVAILABLE UNDER THE LAWS OF THE STATE AFTER A FORECLOSURE (JUDICIAL OR NONJUDICIAL) OF THE MORTGAGED PROPERTY, OR ANY PORTION THEREOF, OR ANY OTHER REALIZATION THEREON BY MORTGAGEE, MORTGAGEE SHALL HAVE THE RIGHT TO SEEK SUCH A DEFICIENCY JUDGMENT AGAINST MORTGAGOR IN THE STATE (SUBJECT TO THE TERMS AND PROVISIONS OF SECTION 8.24 OF THE LOAN AGREEMENT); AND (III) MORTGAGOR AGREES THAT IF MORTGAGEE OBTAINS A DEFICIENCY JUDGMENT IN ANOTHER STATE, THEN MORTGAGEE SHALL HAVE THE RIGHT TO ENFORCE SUCH JUDGMENT IN THE STATE TO THE EXTENT PERMITTED UNDER THE LAWS OF THE STATE, AS WELL AS IN OTHER STATES (SUBJECT TO THE TERMS AND PROVISIONS OF SECTION 8.24 OF THE LOAN AGREEMENT).



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*[Signature Commences on the Following Page]*



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**IN WITNESS WHEREOF**, Mortgagor and Mortgagee have executed this Modification as of the date and year first written above.

**MORTGAGOR:**

**THCI COMPANY LLC**, a Delaware limited liability company

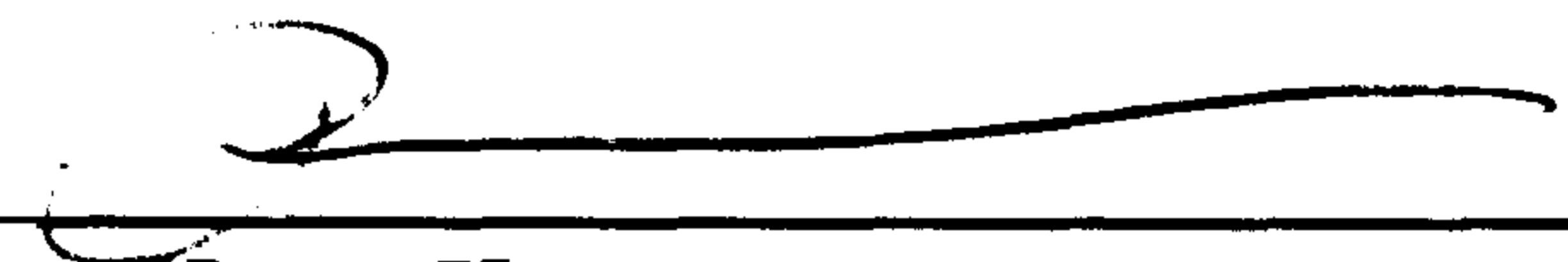
By: Michael S. Sherman  
Name: Michael S. Sherman  
Title: Vice President and General Counsel



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**MORTGAGEE:**

**CITIGROUP GLOBAL MARKETS REALTY  
CORP., a New York corporation**

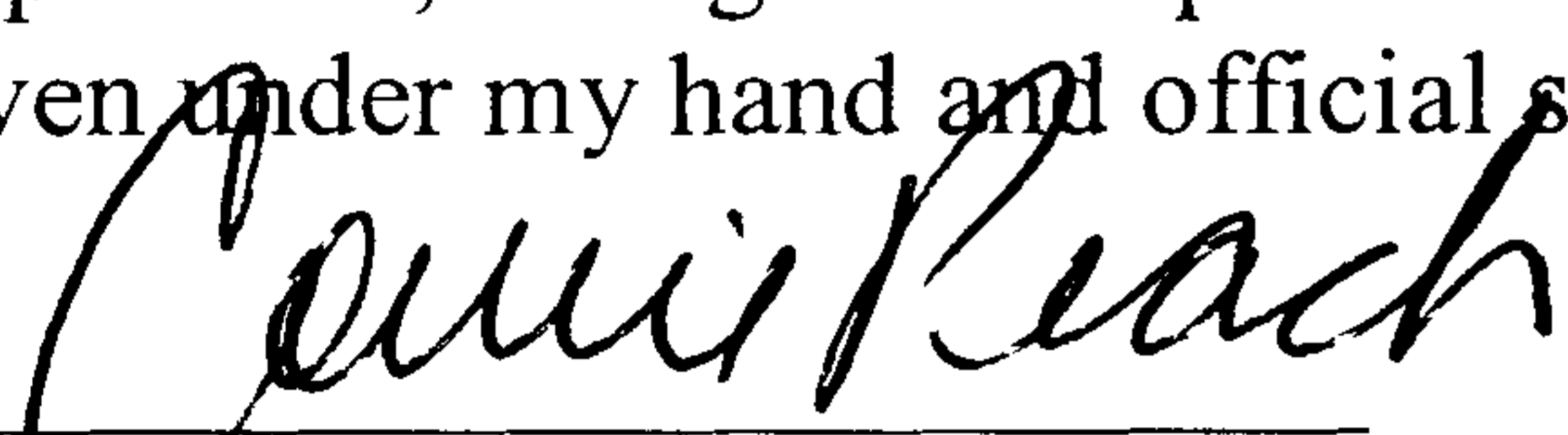
By: \_\_\_\_\_

Name: Harry Kramer

Title: Authorized Representative

STATE OF NEW YORK     )  
  )   ss.  
COUNTY OF NEW YORK    )

I, the undersigned, a notary public in and for said county in said state, hereby certify that Michael S. Sherman, whose name as of February 28, 2005 of Care Ventures, Inc., a Delaware corporation, as Asset Manager of Care Realty, L.L.C. , a Delaware limited liability company, as Vice President and General Counsel of THCI Holding Company LLC, a Delaware limited liability company, as Vice President and General Counsel of THCI Company LLC, a Delaware limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacities as aforesaid, for and as the act of said company. Given under my hand and official seal this 28<sup>th</sup> day of February, 2005.

  
\_\_\_\_\_  
Notary Public

**CORRIE PEACH**  
Notary Public, State Of New York  
No. 01PE6063594  
Qualified In Bronx County  
Commission Expires Sept. 4, 2005

NOTARIAL SEAL My commission expires: \_\_\_\_\_





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STATE OF NEW YORK     )  
  )   ss.  
COUNTY OF NEW YORK   )

I, the undersigned, a notary public in and for said county in said state, hereby certify that Harry Kramer, whose name as of February 27, 2005 of Citigroup Global Markets Realty Corp., a New York corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacities as aforesaid, for and as the act of said company. Given under my hand and official seal this 27<sup>th</sup> day of February, 2005.

Corrie Peach  
Notary Public

**CORRIE PEACH**  
Notary Public, State Of New York  
No. 01PE6063594  
Qualified In Bronx County  
Commission Expires Sept. 4, 2005

NOTARIAL SEAL My commission expires: \_\_\_\_\_



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**PROPERTY #38  
ALABASTER, AL**

**EXHIBIT "A"  
LEGAL DESCRIPTION**

Commence at the Southeast corner of the West 1/2 of the Southeast 1/4 of the Northwest 1/4 of Section 35, Township 20 South, Range 3 West; thence run North along the East line of said West 1/2 of the Southeast 1/4 of the Northwest 1/4 of said Section 35 for a distance of 342.79 feet to the point of beginning; from the point of beginning thus obtained, continue North along last described course for a distance of 821.63 feet; thence turn an angle to the left of 94°03'50" and run in a Southwesterly direction for a distance of 593.37 feet; thence turn an angle to the left of 90°42'10" and run in a Southeasterly direction along the East right of way line of Shelby County Highway No. 95 for a distance of 484.46 feet to the point of beginning of a curve to the right, said curve having a central angle of 2°08' and a radius of 7679.28 feet; thence run along the arc of said curve and the East right of way line of Shelby County Highway No. 95 for a distance of 285.93 feet; thence turn an angle to the left of 86°08' from the tangent of last described course and run in an Easterly direction for a distance of 533.30 feet to the point of beginning. Being situated in Shelby County, Alabama.