

20051209000639720 1/7 \$29.00
Shelby Cnty Judge of Probate, AL
12/09/2005 04:07:56PM FILED/CERT

PREPARED BY:

Thomas P. Witt

Wolf, Block, Schorr and Solis-Cohen LLP

1650 Arch Street - 22nd Floor

Philadelphia, PA 19103-2097

RETURN TO:

David Feldman, Esquire

First American Title Insurance Company

Two Penn Center Plaza

Philadelphia, PA 19102

Tax Parcel: #58-10-5-15-0-001-039; 58-10-5-15-0-001-038.004; 58-10-5-15-0-001-038.003; 58-10-5-15-0-001-038

Store No. 7026

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

THIS ASSIGNMENT AND ASSUMPTION OF GROUND LEASE, dated November 8, 2005 and effective as of November 22, 2005 (this "Assignment"), is entered into by and between **HARCO, INC.**, an Alabama corporation ("Assignor") and **SOVEREIGN RA, LLC**, a Delaware limited liability company ("Assignee").

RECITALS

A. Assignor entered into that certain ground lease dated November 1, 2005, as tenant, with Babington Properties, L.P., as landlord, for certain real property located at the southeast corner of Valleydale and Caldwell Mill Roads, Birmingham, Alabama (the "Property") (more fully described on Exhibit "A" which is attached hereto and made a part hereof), (the "Ground Lease"), as evidenced by that certain Memorandum of Lease dated as of November 1, 2005 and intended to be recorded in the Office of the Clerk of the County Court of Shelby, Alabama prior to the recordation of this Assignment.

B. Assignor desires to assign to Assignee its interest as tenant under the Ground Lease and Assignee desires to accept said assignment and assume the obligations of Assignor under said Ground Lease upon the terms, covenants and conditions set forth in this Assignment.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee covenant and agree as follows:

1. Assignment. Assignor hereby assigns, transfers and sets over unto Assignee all of Assignor's right, title and interest in and to the Ground Lease.

2. Assumption. Assignee accepts said assignment and assumes and promises to observe and perform all the covenants and obligations of Assignor under the Ground Lease arising from and after the commencement date of the Rite Aid Sublease (defined below), provided, that nothing contained herein shall be deemed to limit Assignor's obligations under the Rite Aid Sublease, all of which are hereby ratified and confirmed.

3. Indemnification. Assignor shall indemnify and hold Assignee harmless from and against all liabilities, claims, obligations, costs and expenses, including without limitation, reasonable attorney fees and expenses, which arise out of Assignor's interest as tenant under the Ground Lease and relate to the period prior to the commencement date of that certain sublease by and between Assignee, as landlord, and Assignor, as subtenant, intended to be dated as of the 8th day of November, 2005 (the "Rite Aid Sublease"). The Assignee shall indemnify and hold the Assignor harmless from and against all liabilities, claims, obligations, costs and expenses, including without limitation, reasonable attorney fees and expenses, which arise out of Assignee's interest as tenant under the Ground Lease and relate to the period from and after the commencement date of the Rite Aid Sublease; *provided* however, that Assignee's agreement to indemnify Assignor shall in no way lessen or otherwise affect Assignor's obligations pursuant to the Rite Aid Sublease.

4. Enforceability. Each provision contained in this Agreement shall be a separate and independent obligation. If any provision of this Agreement or application thereof to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforceable to the extent permitted by applicable law.

5. Use Restriction. Assignor hereby agrees that the covenant in that certain Statutory Warranty Deed with respect to the Property dated as of March 5, 2002 from Assignor to NOM Birmingham, Ltd. and recorded with the Shelby County Judge of Probate in Shelby County, Alabama as Instrument No. 2002-13155 set forth below shall not be effective and is hereby waived as to Assignee or its successors or assigns and as to any person or entity succeeding to the interests of Assignor under the Rite Aid Sublease or otherwise operating the Property pursuant to a lease or other agreement which is subject to the Ground Lease:


"No portion of the above described Property shall be used for the sale of prescription drugs, articles requiring the presence of a licensed pharmacist, or health and beauty aids, or for use in connection with the use of any other real property on which prescription drugs, articles requiring the presence of a licensed pharmacist or health or beauty aids

are sold; provided, however, that the foregoing prohibition shall not be effective as to Grantor or any parent or affiliate of Grantor."

6. Binding Effect. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective heirs, personal representatives, successors and assigns.

7. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument.

8. Governing Law. This Assignment shall be governed by and interpreted in accordance with the laws of the State of Alabama.


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IN WITNESS WHEREOF, intending to be legally bound, the parties have caused this instrument to be executed by their duly authorized representatives on the day and year first above written.

ASSIGNOR:

HARCO, INC., an Alabama corporation

By: _____

Name: I. Lawrence Gelman

Title: Vice President

ASSIGNEE:

SOVEREIGN RA, LLC,
a Delaware limited liability company

By: SOVEREIGN GL, LLC,
a Delaware limited liability company, its
Manager

By: SOVEREIGN INVESTMENT COMPANY,
a California corporation, its sole Manager

By: _____

Name: Jeffrey G. Hoppen

Title: Chief Investment Officer

By: _____

Name: Barry D. Bain

Title: Vice President



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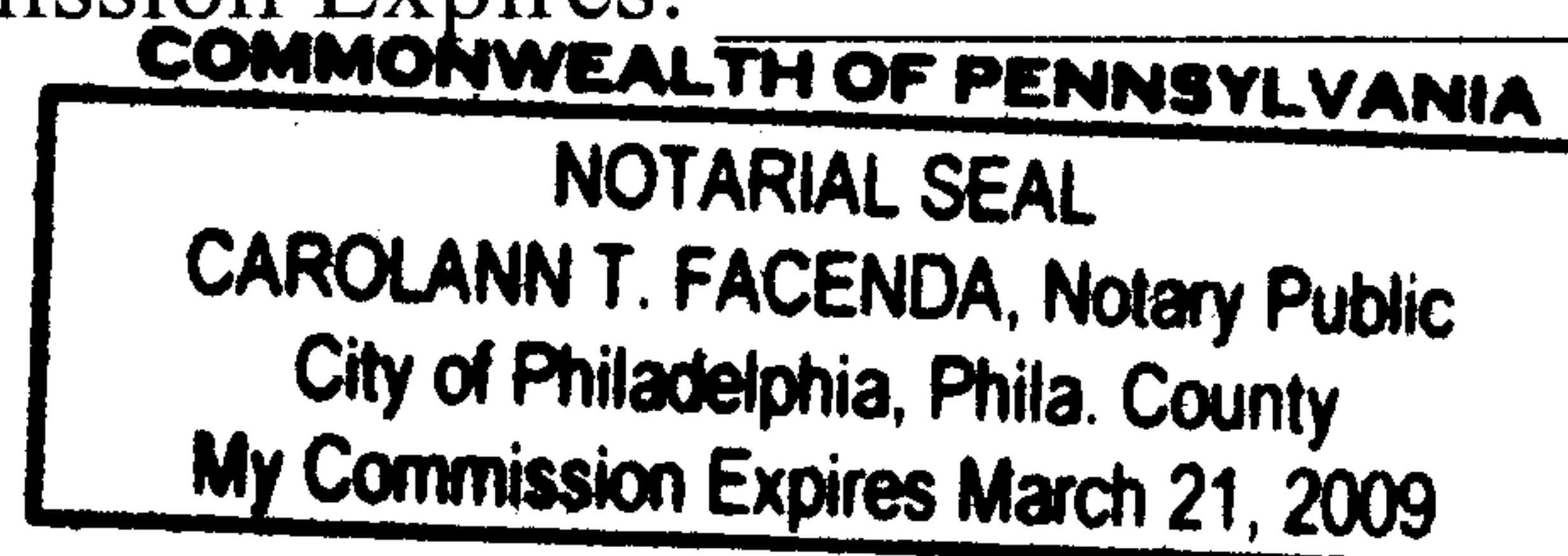
STATE OF Pennsylvania :
COUNTY OF Philadelphia : SS.
:

The foregoing instrument was subscribed and sworn to before me this 8th day of November, 2005, by **Jeffrey G. Hoppen**, the Chief Investment Officer, and **Barry D. Bain**, the Vice President, of **SOVEREIGN INVESTMENT COMPANY**, a California corporation, the manager of **SOVEREIGN GL, LLC**, a Delaware limited liability company, the manager of **SOVEREIGN RA, LLC**, a Delaware limited liability company, on behalf of the limited liability company.

(NOTARY SEAL)

Carolann T. Facenda
Notary Public

My Commission Expires:



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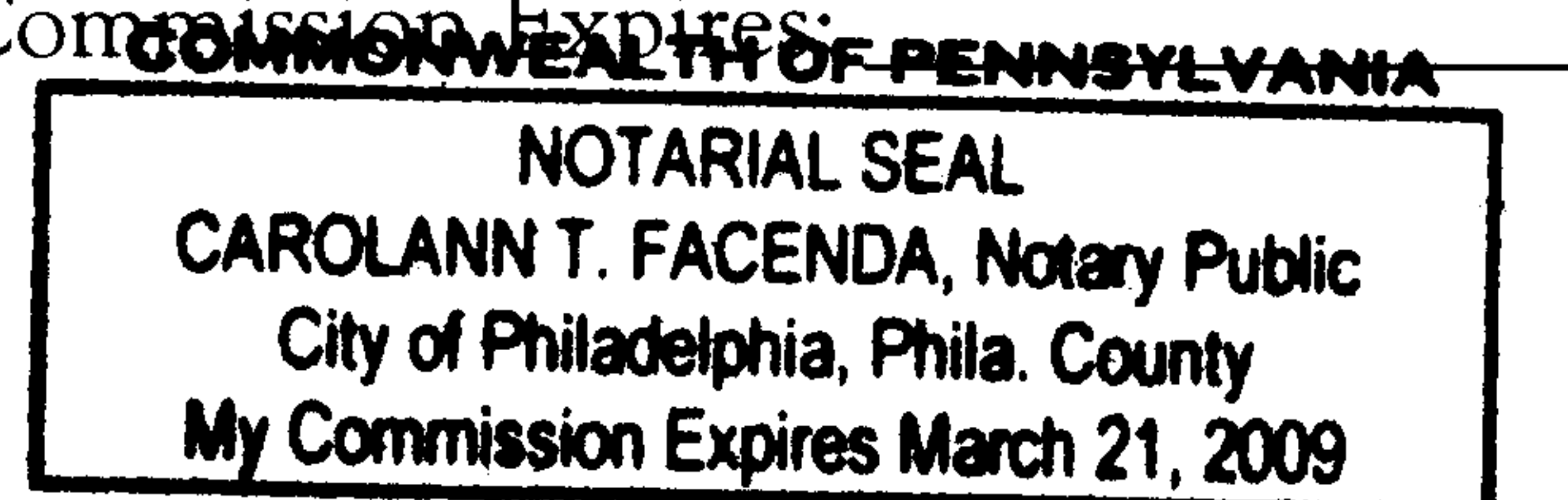
STATE OF Pennsylvania :
COUNTY OF Philadelphia : SS.
:

The foregoing instrument was acknowledged before me this 8th day of November, 2005, by **I. LAWRENCE GELMAN**, as Vice President of **HARCO, INC.**, an Alabama corporation, on behalf of the corporation.

(NOTARY SEAL)

Carolann T. Facenda
Notary Public

My Commission Expires:





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EXHIBIT "A"

Real property in the County of Shelby, State of Alabama, described as follows:

Lot 1 according to the survey of Valleydale Rite Aid Survey as recorded in Map Book 36 page 21 in the Probate Office, Shelby County, Alabama.



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