

Tax collected on
20060609000274310

This instrument was prepared by:

Daniel B. Gail
Gail & Associates, P.C.
600 Las Colinas Boulevard East
Suite 550, LB 127
Irving, Texas 75039

When recorded, please return to above
address.


20061113000554350 1/143 \$438.00
Shelby Cnty Judge of Probate, AL
11/13/2006 12:12:54PM FILED/CERT

**LEASEHOLD MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

**HCP SHELBY MOB, LLC,
(Mortgagor)**

Mortgagor's Entity Identification Number (DE): 4079180

to

**GOLDMAN SACHS COMMERCIAL MORTGAGE CAPITAL, L.P.
(Mortgagee)**

Dated: As of May 31, 2006

Property Location: 1010 1st Street North
Birmingham, Alabama 35007

Loan No. 09-0002372

THIS INSTRUMENT IS TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS
AND IS ALSO TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER
THE NAMES OF MORTGAGOR, AS "DEBTOR," AND MORTGAGEE, AS "SECURED
PARTY."

THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (the "Mortgage"), is executed on the date set forth on the signature page below in the acknowledgment to be given and granted as of May 31, 2006, by **HCP SHELBY MOB, LLC**, a Delaware limited liability company, having its principal place of business at 3760 Kilroy Airport Way, Suite 300, Long Beach, California 90806 ("Mortgagor"), to **GOLDMAN SACHS COMMERCIAL MORTGAGE CAPITAL, L.P.**, a Delaware limited partnership, having its principal place of business at 600 East Las Colinas Boulevard, Suite 450, Irving, Texas 75039 ("Mortgagee"). As used in this Mortgage, the term "Guarantor" means **HEALTH CARE PROPERTY INVESTORS, INC.**, a Maryland corporation (also sometimes referred to in this Mortgage as "HCP"). As used in this Mortgage, the term "Maturity Date" means the date the entire outstanding principal balance of the Note (defined below), together with all accrued but unpaid interest thereon, shall be due and payable, which date is June 6, 2016, subject to Mortgagee's right to accelerate the maturity of the Note.

W I T N E S S E T H:

To secure (i) the payment of an indebtedness in the original principal sum of Ninety-One Million Seven Hundred Thirty Thousand and No/100 Dollars (\$91,730,000.00), lawful money of the United States of America, to be paid with interest according to a certain promissory note of even date herewith made by Mortgagor and the Other Debtors (defined in Paragraph 57 and together with Mortgagor are sometimes referred to as the "Borrowers") to Mortgagee (the promissory note together with all extensions, renewals, modifications, substitutions, consolidations and amendments thereof being hereinafter collectively called the "Note") and all other sums due hereunder, under the other Loan Documents (hereinafter defined) and under the Note, including, without limitation, interest, default interest, late charges, prepayment premiums and any sums advanced by Mortgagee to protect or preserve the hereinafter defined Mortgaged Property (said indebtedness and interest due under the Note and all other sums due hereunder, under the Note and the other Loan Documents being hereinafter collectively referred to as the "Debt"), and (ii) the full and prompt performance of each and every other obligation of Mortgagor contained herein or in the Loan Documents (collectively the "Obligations"), Mortgagor has sold, given, granted, bargained, alienated, enfeoffed, conveyed, confirmed, warranted, pledged, assigned, and hypothecated and by these presents does hereby sell, give, grant, bargain, alienate, enfeoff, convey, confirm, warrant, pledge, assign and hypothecate unto Mortgagee, the leasehold estate created under the Ground Lease described on Annex 1 attached hereto, which Annex 1 is incorporated herein by this reference, in the real property described in Exhibit A attached hereto (the "Premises"), and all of Mortgagor's right, title and interest in and to any and all buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located or erected 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"):

- (a) the Ground Lease and the leasehold estate created thereby;
- (b) all modifications, extensions and renewals of the Ground Lease and all credits, deposits (including, without limitation, any deposit of cash or securities or any other property which may be held to secure Mortgagor's performance of its obligations under the Ground Lease), options, privileges and rights of Mortgagor as tenant under the Ground Lease, including, but not limited to, the right, if any, to renew or extend the Ground Lease for a succeeding term or terms;
- (c) all the estate, right, title, claim or demand whatsoever of Mortgagor either in law or in equity, in possession or expectancy, of, in and to the Premises and Improvements or any part thereof; all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, all rights to as-extracted collateral produced from or allocated to the Premises including without limitation oil, gas, minerals, coal and other substances of any kind or character, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements under and by virtue of the Ground Lease and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road, highway, alley or avenue, opened, vacated 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, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Premises and the Improvements under and by virtue of the Ground Lease and every part and parcel thereof, with the appurtenances thereto;
- (d) all furniture, furnishings, fixtures, goods, equipment, inventory and all other personal property now or hereafter located on, attached to or used in or about the Improvements, whether tangible or intangible, including, but not limited to, machines, engines, boilers, furnaces, pipes, dynamos, transportation apparatus including stairways, elevators, escalators and conveyors, stokers, tanks, cabinets, awnings, screens, shades, blinds, carpets, rugs and other floor coverings, draperies, appliances, cable television systems and other cable connections and systems, sprinkler systems, fire extinguishing apparatus and equipment, water tanks, swimming pools, plumbing fixtures and equipment, heating fixtures and equipment, air conditioning fixtures and equipment, lighting fixtures and equipment, ventilating fixtures and equipment, refrigerating fixtures and equipment, communications fixtures and equipment including telephones, photocopiers and facsimile machines, disposal and incinerating fixtures and equipment, recreational facilities and equipment, landscaping equipment, and building materials, supplies and equipment (hereinafter all of the foregoing items in this Subparagraph

collectively referred to as the "Equipment"), including any leases of any of the Equipment, any deposits existing at any time in connection with any of the Equipment, and the proceeds of any sale or transfer of the foregoing;

(e) all awards or payments, including interest thereon, that may heretofore and hereafter be made with respect to the Premises, Improvements or the Equipment, whether from the exercise of the right of eminent domain or condemnation (including, without limitation, any transfer made in lieu of or in anticipation of the exercise of said rights), or for a change of grade, or for any other injury to or decrease in the value of the Premises, Improvements or the Equipment;

(f) all leases, subleases, and other agreements or arrangements heretofore or hereafter entered into affecting the use, enjoyment or occupancy of, or the conduct of any activity upon or in, the Premises and the Improvements, including any extensions, renewals, modifications or amendments thereof (collectively, the "Leases") (the tenants, lessees, licensees, occupants or other users under the Leases are collectively hereinafter referred to as "tenants") and all rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other payment and consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Premises and the Improvements (the "Rents"), now or hereafter affecting the Premises and the Improvements, now or hereafter due or payable for the occupancy or use of the Premises and the Improvements, including without limitation all guaranties thereof now or hereafter affecting the Premises and the Improvements, together with all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt; and all proceeds payable under any policy of insurance covering loss of Rents resulting from the inability of tenants to operate their businesses due to damage to any part of the Improvements, and all of Mortgagor's rights to recover monetary amounts from any lessee in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults, including rejection of a Lease;

(g) all proceeds of and any unearned premiums on any insurance policies covering all or any portion of the Premises, Improvements or Equipment, including, without limitation, but subject to the provisions hereof, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, paid or payable with respect to any damage to or destruction of any improvements or other property, whether real, personal or mixed, located on the Premises and for any other damage to the Premises, Improvements or Equipment;

(h) all accounts, escrows, impounds, reserves, documents, instruments, chattel paper (whether tangible or electronic), claims, deposits and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code, as in effect from time to time in the state where the Premises are located (the "Uniform Commercial Code"), all promissory notes, and all franchises, trade names, trademarks, copyrights, symbols, service marks, books, records, recorded data of any kind or nature (regardless of the medium), plans, specifications, schematics, designs, drawings, permits, consents, licenses, license agreements, operating contracts, contract rights (including, without limitation, any contract with any architect or engineer or with any other provider of goods or services for or in connection with any construction, repair, or other work upon the Premises, Improvements or Equipment) and all management, franchise, service, supply and maintenance contracts and agreements, and any other agreements, permits or contracts of any nature whatsoever now or hereafter obtained or entered into by or on behalf of Mortgagor with respect to the operation or ownership of the Premises, Improvements or Equipment; and all approvals, actions, refunds, rebates or reductions of real estate taxes and assessments (and any other governmental impositions related to the Premises, Improvements or Equipment) resulting as a result of tax certiorari or any applications or proceeding for reduction; and all causes of action that now or hereafter relate to, are derived from or are used in connection with the Premises, Improvements or Equipment, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (hereinafter all of the items referred to in this Subparagraph (h) collectively referred to as the "Intangibles");

(i) all letter of credit proceeds (whether or not the letter of credit is evidenced by a writing) Mortgagor now has or hereafter acquires relating to the Premises, Improvements, Equipment, Intangibles and other properties, rights, title and interests hereinabove described;

(j) all commercial tort claims Mortgagor now has or hereafter acquires relating to the Premises, Improvements, Equipment, Intangibles and other properties, rights, title and interests hereinabove described;

(k) any and all monies or funds now or hereafter deposited in or with respect to any impound, escrow or similar funds established pursuant to or held under any of the Loan Documents, including but not limited to the Tax and Insurance Impound and the Replacement and Cancelled Lease Escrow Funds (as such terms are hereinafter defined);

(l) all accounts and proceeds (cash or non-cash), products, offspring, rents and profits from any of the foregoing, including, without limitation, those from the conversion (whether voluntary or involuntary), sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing;

(m) other or greater rights and interests of every nature in the Premises or the Improvements and in the possession or use thereof and income therefrom;

(n) additions to the foregoing and substitutions and replacements for the foregoing;

(o) the right, title and interest of Mortgagor in and to any of the foregoing that may be subject to any "security interests" as defined in the Uniform Commercial Code, to the extent such "security interests" are superior in right and priority to the lien of this Mortgage.

TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto and to the use and benefit of Mortgagee and its successors and assigns forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, except as otherwise provided for herein, if Mortgagor shall well and truly pay to Mortgagee the Debt (as defined above, including all future advances and other future indebtedness, obligations and liabilities included therein) at the time and in the manner provided in the Note and this Mortgage, these presents and the estate hereby granted shall be released and reconveyed to Mortgagor or the party or parties then entitled to such reconveyance; provided however, that Mortgagor's obligation to indemnify and hold harmless Mortgagee pursuant to the provisions hereof with respect to matters relating to any period of time during which this Mortgage was in effect shall survive any such payment or release.

All of the covenants, conditions and agreements contained in (i) the Note and (ii) all and any of the documents other than the Note and this Mortgage now or hereafter executed by Mortgagor and the Other Debtors 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, including the separate Assignment of Leases and Rents from Mortgagor to Mortgagee of even date herewith (the "Assignment") and the Mortgage Loan Cooperation Agreement from Mortgagor and Guarantor to Mortgagee of even date herewith (the "Loan Cooperation Agreement"), (collectively the "Loan Documents") are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein; provided, however, that notwithstanding any provision of this Mortgage to the contrary, the obligations of the Mortgagor under that certain Environmental and Hazardous Substance Indemnification Agreement of even date herewith executed by Mortgagor in favor of Mortgagee (the "Environmental Indemnity") shall not be deemed or construed to be secured by the lien of this Mortgage or otherwise restricted or affected by the foreclosure of the lien hereof or any other exercise by Mortgagee of its remedies hereunder or under any other Loan Document, such Environmental Indemnity being intended by Mortgagor and Mortgagee to be an unsecured obligation. The Note is evidence of that certain loan in the amount of \$91,370,000.00 which matures on June 6, 2016 made to Mortgagor and the Other Debtors (defined below) by Mortgagee (the "Loan"). In connection with the Loan, Guarantor has executed and delivered to Mortgagee that certain Guaranty of even date herewith (the "Guaranty").

1. Certain Representations, Warranties and Covenants of Mortgagor.
Mortgagor represents and warrants to Mortgagee and covenants and agrees as follows:

(a) Mortgagor covenants and agrees to pay the Debt and perform the Obligations at the time and in the manner provided in the Note and in this Mortgage. Mortgagor covenants and agrees that this Mortgage secures all advances made pursuant to the Note and all other Loan Documents.

(b) Mortgagor represents and warrants to Mortgagee that Mortgagor (i) has good and insurable leasehold title to the Mortgaged Property, (ii) is, and has been since the date of its formation, duly organized, validly existing and in good standing under the laws of its state of organization or incorporation, (iii) is, and since the date of its acquisition of the Mortgaged Property been, duly qualified to transact business and in good standing in the state where the Premises are located, (iv) has, to its knowledge and belief, all necessary approvals, governmental and otherwise, and full power and authority to own, operate and lease the Premises and Improvements, (v) has full power, authority and legal right to mortgage, give, grant, bargain, sell, alienate, enfeoff, convey, confirm, warrant, pledge, assign and hypothecate the Mortgaged Property pursuant to, and to keep and observe all of, the terms of this Mortgage and the other Loan Documents, (vi) possesses an unencumbered leasehold fee estate in the Premises and Improvements created by and pursuant to the provisions of the Ground Lease and owns the Mortgaged Property, subject to the terms of the Ground Lease, 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 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, (vii) to its knowledge, except for only said exceptions, has no judgments or liens of any nature outstanding against it, (viii) to its knowledge, has paid all taxes due and payable and is not involved in any dispute with any taxing authority, and (ix) to its knowledge, has no material contingent or actual obligations not related to the Loan. Mortgagor shall forever warrant, defend and preserve such title and the validity and priority of the lien of this Mortgage and shall forever warrant and defend the same to Mortgagee against the claims of all persons whomsoever subject to the exceptions shown on the title insurance policy insuring the lien of this Mortgage. The exceptions shown in the title insurance policy insuring the lien of this Mortgage do not and will not materially and adversely affect or interfere with the value, or current use or operation, of the Premises and Improvements, or the security intended to be provided by this Mortgage or Mortgagor's ability to repay the Debt in accordance with the terms of the Loan Documents.

(c) Subject to Mortgagor's rights to contest under Paragraph 29 of this Mortgage, Mortgagor covenants and agrees with Mortgagee to pay (i) all taxes, assessments, governmental impositions, water rates and sewer rents, now or hereafter levied or assessed or imposed against the Mortgaged Property or any part thereof (the "Taxes"), (ii) all ground rents, maintenance charges, other impositions, and other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Premises, if any, (the "Other Charges"), now or hereafter levied or assessed or imposed against the Mortgaged Property or any part thereof, and

(iii) all claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered to the Premises or the Improvements, when the same are due and payable. Subject to Mortgagor's rights to contest under Paragraph 29 of this Mortgage, 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 for the payment of Taxes, Other Charges and the claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered to the Premises or the Improvements, and shall promptly pay for all utility services provided to the Mortgaged Property as the same become due and payable. Mortgagor will deliver to Mortgagee receipts for payment or other evidence satisfactory to Mortgagee that the Taxes and Other Charges have been so paid or are not then delinquent no later than thirty (30) days prior to the earlier of the date on which the Taxes and/or Other Charges would become delinquent if not paid or the date on which penalties and/or interest would commence to accrue on the Taxes and/or Other Charges due to non-payment (provided, however, that Mortgagor is not required to furnish such receipts for payment of Taxes in the event that Mortgagor has previously deposited with Mortgagee sufficient funds to pay all such Taxes from the Tax and Insurance Impound).

(d) Mortgagor represents and warrants to Mortgagee that (i) Mortgagor is not an "investment company," or a company "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended, or 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 subject to any other federal or state law or regulation that purports to restrict or regulate Mortgagor's ability to borrow money; (ii) no part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulations T, U or X of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent with such Regulations T, U or X or any other Regulations of such Board of Governors, or for any purpose prohibited by legal requirements or by the terms and conditions of the Loan Documents; (iii) the Loan is solely for the business purpose of Mortgagor and the Other Debtors, and is not for personal, family, household, or agricultural purposes and the Mortgaged Property is not and will not be used principally for agricultural or farming purposes; and (iv) 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 or 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.

(e) Mortgagor represents and warrants to Mortgagee that to Mortgagor's knowledge and belief (i) Mortgagor has obtained all certificates, licenses and other approvals, governmental and otherwise, necessary for the operation of the Premises and Improvements and the conduct of its business and all required zoning, building code, land

use, environmental and other similar permits or approvals, all of which are in full force and effect as of the date hereof and none of which have been revoked, suspended, forfeited or modified, and has been in compliance in all material respects with all laws, regulations, and orders applicable to it since the date of its organization, (ii) the Premises and Improvements and the present and contemplated use and occupancy thereof are in compliance in all material respects with all applicable laws, (iii) except as disclosed in writing by Mortgagor to Mortgagee prior to the date hereof, the Improvements are served by all utilities required for the current or contemplated use thereof and all utility services are provided by public utilities and the Improvements have accepted or are equipped to accept such utility services, (iv) all public roads and streets necessary for service of and access to the Premises and Improvements for the current or contemplated use thereof have been completed, are serviceable and all-weather and are physically and legally open for use by the public, (v) except as disclosed in writing by Mortgagor to Mortgagee prior to the date hereof, the Improvements are served by public water and sewer systems, (vi) except as disclosed in writing to Mortgagee prior to the date hereof, the Improvements are free from damage caused by fire or other casualty, (vii) all costs and expenses of any and all labor, materials, supplies and equipment used in the construction of the Improvements have been paid in full, (viii) except for personal property owned or leased by tenants, Mortgagor has paid in full for, and is the owner of, all of the Equipment and other personal property used in connection with the operation of the Improvements subject to the terms of the Ground Lease, free and clear of any and all security interests, liens or encumbrances, except the lien and security interest created hereby, and (ix) there is no proceeding pending (or notice of such proceeding received by Mortgagor) for the total or partial condemnation of, or affecting, the Premises or Improvements.

(f) Mortgagor represents and warrants to Mortgagee that to Mortgagor's knowledge and belief, (i) except as shown on the survey of the Premises and Improvements delivered to Mortgagee prior to the date hereof, all of the Improvements which were included in determining the appraised value of the Mortgaged Property lie wholly within the boundaries and building restriction lines of the Premises, and no improvements on adjoining properties encroach upon the Premises or Improvements, and no easements or other encumbrances, except those which are insured against by title insurance, encroach upon any of the Improvements so as to affect the FMV (defined below) or marketability of the Mortgaged Property and (ii) except as disclosed in writing to Mortgagee prior to the date hereof, the Premises and Improvements are assessed for real estate tax purposes as one or more wholly independent tax lot or lots, separate from any adjoining land or improvements not constituting a part of such lot or lots, and no other land or improvements are assessed and taxed together with the Premises and Improvements or any portion thereof. Mortgagor agrees that if the Premises and Improvements are not taxed and assessed as one or more tax parcels exclusive of all other real property, the term "Taxes" will include all taxes, assessments, water rates and sewer rents now or hereafter levied, assessed or imposed against all other property, whether or

not owned by Mortgagor, that is taxed and assessed as part of any tax parcel that includes all or any portion of the Premises or Improvements.

(g) Mortgagor represents and warrants to Mortgagee that to its knowledge and belief, except as expressly disclosed in writing in the Leases, the rent roll for the Improvements delivered to Mortgagee prior to the date hereof, any of the tenant estoppel certificates delivered to Mortgagee prior to the date hereof, or otherwise in writing delivered to Mortgagee prior to the date hereof (i) Mortgagor is the sole owner of the entire lessor's interest in the Leases, (ii) the Leases are valid and enforceable and in full force and effect, (iii) all of the Leases are arm's-length agreements with bona fide, independent third parties, (iv) no party under any Lease is in default in any material respect, (v) all Rents due as of the date hereof have been paid in full, (vi) the terms of all alterations, modifications and amendments to the Leases are reflected in the written documents delivered to Mortgagee prior to the date hereof, (vii) none of the Rents reserved in the Leases have been assigned or otherwise pledged or hypothecated, (viii) none of the Rents have been collected for more than one (1) month in advance (except a security deposit that shall not be deemed rent collected in advance), (ix) the premises demised under the Leases have been completed and the tenants under the Leases have accepted the same and have taken possession of the same on a rent-paying basis, (x) there exist no offsets or defenses to the payment of any portion of the Rents and Mortgagor has no monetary obligation to any tenant under any Lease, (xi) Mortgagor has received no notice from any tenant challenging the validity or enforceability of any Lease, (xii) there are no agreements with the tenants under the Leases other than expressly set forth in each Lease, (xiii) no Lease contains an option to purchase, right of first refusal to purchase, or any other similar provision respecting the Premises or Improvements, (xiv) no person has any possessory interest in, or right to occupy, the Premises or Improvements except under and pursuant to a Lease, (xv) all security deposits relating to the Leases reflected on the rent roll delivered by Mortgagor to Mortgagee have been collected in cash by Mortgagor, and (xvi) no brokerage commissions or finders fees are due and payable regarding any Lease.

(h) Except as disclosed to Mortgagee in writing on or prior to the date hereof, and except for any of the following the existence of which would not have a Material Adverse Effect, Mortgagor represents and warrants to Mortgagee that (i) there is no action, suit or proceeding, judicial, administrative or otherwise (including any condemnation or similar proceeding), pending or, to Mortgagor's knowledge and belief, threatened or contemplated against Mortgagor, any Affiliate (defined below) of Mortgagor, Guarantor, or any person who owns or controls, directly or indirectly, ten percent (10%) or more of the beneficial ownership interests of Mortgagor or Guarantor, or against or affecting any portion of the Mortgaged Property, (ii) Mortgagor is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code and the related Treasury Department regulations, (iii) during the ten (10) year period preceding the date hereof, no petition in bankruptcy has been filed by or against Mortgagor, Guarantor, or any Affiliate of Mortgagor or Guarantor, or any person who

owns or controls, directly or indirectly, ten percent (10%) or more of the beneficial ownership interests of Mortgagor or Guarantor, (iv) Mortgagor has not entered into the Loan or any of the Loan Documents with the actual intent to hinder, delay, or defraud any creditor, (v) Mortgagor has received reasonably equivalent value in exchange for its obligations under the Loan Documents, (vi) giving effect to the transactions contemplated by the Loan Documents, the fair saleable value of the Mortgagor's assets exceeds and will, immediately following the execution and delivery of the Loan Documents, exceed Mortgagor's total liabilities, including, without limitation, subordinated, unliquidated, disputed or contingent liabilities, (vii) Mortgagor does not have any known material contingent liabilities, (viii) Mortgagor does not have any material financial obligation under any indenture, mortgage, deed of trust, loan agreement, or other agreement or instrument to which Mortgagor is a party or by which Mortgagor or any of the Mortgaged Property is otherwise bound, other than obligations incurred in the ordinary course of the operation of the Mortgaged Property and other than obligations under the Loan and the Loan Documents, (ix) Mortgagor has not borrowed or received other debt financing that has not been heretofore paid in full (or will be paid in full as of the date hereof from the proceeds of the Loan), and (x) Mortgagor is not now, nor has it ever been, party to any lawsuit, arbitration, summons, or similar legal proceeding that has not either been dismissed with prejudice or fully and finally adjudicated such that Mortgagor has no obligations whatsoever with respect to any such matter.

(i) Mortgagor represents and warrants to Mortgagee that to Mortgagor's knowledge and belief the Mortgaged Property is, and Mortgagor covenants and agrees to cause the Mortgaged Property at all times to remain, in compliance in all material respects with all statutes, ordinances, regulations and other governmental or quasi-governmental requirements and private covenants now or hereafter relating to the ownership, construction, use or operation of the Mortgaged Property.

(j) The Amended and Restated Property Management Agreement, dated May 23, 2006, (the "Management Agreement") between Mortgagor, the Other Debtors and Johnson Development, L.L.C., an Alabama limited liability company (the "Property Manager") pursuant to which Property Manager manages the Mortgaged Property is in full force and effect and there is no default or violation by any party thereunder. The fee due under the Management Agreement, and the terms and provisions of the Management Agreement, are subordinate to this Mortgage pursuant to the Manger's Consent described below and the Property Manager shall attorn to Mortgagee. Mortgagor shall not pay any fee to Property Manager except to the extent expressly permitted under Section 3(o) of that certain Manager's Consent and Subordination of Management Agreement of even date herewith executed by Property Manager and Mortgagor to and for the benefit of Mortgagee (the "Manager's Consent"). If Mortgagor proposes to enter into an agreement relating to the management or operation of the Mortgaged Property with any Person other than Property Manager, an Affiliate of Mortgagor or the Property Manager, or a Qualified Manager (defined below), Mortgagee may condition its consent to such new arrangement upon Mortgagee's receipt of written recommendations from the Rating

Agencies (as hereinafter defined) to the effect that the proposed change in property manager will not result in a requalification, reduction or withdrawal of any rating assigned in a Secondary Market Transaction (as hereinafter defined), if Mortgagee reasonably determines it necessary or prudent to do so. Mortgagor shall reimburse Mortgagee promptly for all of Mortgagee's reasonable, actual out-of-pocket costs incurred in processing Mortgagor's request for consent to new property management arrangements. 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. The term "Qualified Manager," means a person (i) having at least five (5) years' experience in the management of commercial properties with similar uses as the Improvements and located in areas similar to those in which the Improvements are located, (ii) having managed at least (5) properties of the same or similar property type as the Improvements for at least five (5) years prior to its engagement as Property Manager, (iii) at the time of its engagement as Property Manager is also the property manager of leaseable square footage of the same or similar property type as the Improvements equal to the lesser of (A) 1,000,000 leaseable square feet or (B) five (5) times the leaseable square feet of the Improvements and (iv) that is not at the time of its engagement as Property Manager a debtor in a bankruptcy or similar insolvency proceeding. Mortgagor covenants and agrees with Mortgagee that the Management Agreement shall not, whether by amendment, modification, replacement, or substitution, cover any real property other than the Premises and Improvements and the Other Properties (defined in Paragraph 57 below and together with the Mortgaged Property are sometimes referred to as the "Properties").

(k) Mortgagor's exact legal name is correctly set forth above Mortgagor's signature at the end of this Mortgage. Mortgagor is incorporated in or organized under the laws of the State of Delaware. Mortgagor will not change or permit any change to be made in its name, identity, nature of legal form or state of its incorporation or organization, unless in each instance Mortgagor shall have notified Mortgagee in writing of such change at least thirty (30) days prior to the effective date of such change, and shall have first taken all actions reasonably deemed necessary by Mortgagee, including without limitation the execution and delivery of additional financing statements, financing statement amendments, security agreements and other instruments, to effectively evidence or perfect Mortgagee's security interest in the Mortgaged Property as a result of such changes. Mortgagor's principal place of business and its chief executive office, and the place where Mortgagor keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording, including without limitation software, writings, plans, specifications and schematics concerning the Mortgaged Property, has for the preceding four months (or, if less, the entire period of the existence of Mortgagor) been and will continue to be (unless Mortgagor notifies Mortgagee of any change in writing at least 30 days prior to the date of such change) at 3760 Kilroy Airport Way, Suite 300, Long Beach, California 90806. Mortgagor's entity identification number, if any, assigned by the State of Delaware is correctly set forth on the front page of this Mortgage. Mortgagor shall promptly notify Mortgagee of any

change of its entity number or, if Mortgagor does not now have an entity identification number but acquires one after the date hereof, of such entity number.

(l) Mortgagor warrants, represents and covenants that to its knowledge neither Mortgagor, Guarantor nor any person or entity owning a direct or indirect beneficial interest in Mortgagor or Guarantor is or will be an entity or person (i) that is listed in the Annex to, or otherwise subject to, the provisions of Executive Order 13224 issued by the President of the United States on September 23, 2001 and made effective as of September 24, 2001 ("EO13224"), (ii) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designated National and Blocked Persons," (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sdn.pdf>), or (iii) who commits, threatens to commit or supports "terrorism," as that term is defined in EO13224, (each entity or person described in clauses [i] through [iii] in this Subparagraph is sometimes referred to in this Subparagraph as a "Prohibited Person"). Mortgagor covenants and agrees that neither Mortgagor, Guarantor nor any person or entity owning a direct or indirect beneficial interest in Mortgagor or Guarantor will knowingly (x) conduct any business, or engage in any transaction or dealing, with any Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (y) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO13224. Mortgagor further covenants and agrees to deliver from time to time to Mortgagee written certification confirming that (aa) neither Mortgagor, Guarantor nor any person or entity owning a direct or indirect beneficial interest in Mortgagor or Guarantor is a Prohibited Person and (bb) neither Mortgagor, Guarantor nor any person or entity owning a direct or indirect beneficial interest in Mortgagor or Guarantor has knowingly engaged in any business, transaction or dealings with a Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person. Mortgagee acknowledges that it is aware that beneficial ownership interests in Guarantor are publicly traded, that neither Mortgagor nor Guarantor can control who obtains ownership interests in such publicly-held entity in publicly traded transactions, or necessarily have actual knowledge of the identity or nature of direct or indirect owners of publicly traded beneficial ownership interests in such entity. Accordingly, the representations, warranties, and covenants contained in this Subparagraph with respect to Mortgagor and Guarantor and to any Person owning a direct or indirect beneficial interest in Mortgagor or Guaranty by, through, or under such publicly-held entity, does not, except in those cases where Mortgagor has actual written knowledge, extend to any Person owning directly or indirectly publicly traded shares of ownership interests in such entity.

(m) Mortgagor covenants and agrees with Mortgagee to adopt and use commercially reasonable efforts to implement a written plan of practices and procedures

for maintenance at the Improvements intended to mitigate the risk of mold formation and damage that may result from mold in the event of intrusions and sudden discharges of water into the Improvements. Such plan shall be disseminated to the persons who are employed or engaged, directly or indirectly, by Mortgagor to maintain the Improvements, and such procedures shall provide for implementing appropriate measures to commerce removing water and to commence drying measures as promptly as is practicable after the discovery of intrusions or sudden discharges.

2. **Insurance.** Mortgagor, at its sole cost and expense, for the mutual benefit of Mortgagor and Mortgagee, shall obtain and maintain during the entire term of this Mortgage (the "Term") the following policies of insurance:

(a) **All Risk or Special Causes of Loss Property Form including Business Interruption.**

(i) "Special" or "Broad Form" (f/k/a/ "all risk") commercial property insurance (including, without limitation, coverage against riot and civil commotion, vandalism, malicious mischief, water, fire, burglary, theft, and, subject to the limitations below in this Subparagraph (a)(i), terrorism and acts of terrorism) on the Improvements and all other insurable portions of the Mortgaged Property and in each case (A) insuring against any peril now or hereafter included within the classification "Special Form Cause of Loss", (B) in an amount equal to 100% of the "Full Replacement Cost," but in no event more than permitted by applicable law, (C) containing an agreed amount with respect to the Improvements, Equipment and all other insurable portions of the Mortgaged Property waiving all co-insurance provisions, and (D) providing that the deductible shall not exceed the sum of \$50,000.00, unless agreed to in writing by Mortgagee. For the purposes of this Mortgage the term "Full Replacement Cost" means the actual replacement cost of the Improvements and Equipment (without taking into account any depreciation, and exclusive of excavations, footings and foundations, landscaping and paving) determined annually by an insurer, a recognized independent insurance broker or an independent appraiser selected and paid by Mortgagor and in no event less than the coverage required pursuant to the terms of any Lease. Further notwithstanding anything herein to the contrary, coverage for terrorism and acts of terrorism (either as part of "all risk" policy described above or as a separate policy) shall be required if and to the extent that such coverage (E) is then being required to be obtained by institutional lenders holding mortgage liens on properties of substantially a similar type and quality as the Improvements and in locations substantially similar to the location where the Improvements are located or (F) is otherwise available for an annual premium that is less than or equal to the Terrorism Premium Ceiling (such annual premium to be computed after taking into account the effect of any subsidies or credits that may be provided to Mortgagor by or pursuant to any law, regulation, policy or other initiative relating to the purchase and/or maintenance of terrorism insurance

enacted by any governmental authority). As used herein the term "Terrorism Premium Ceiling" means an amount equal to \$2,112.00, which shall be adjusted annually by a percentage equal to the increase, if any, in the Consumer Price Index on a year-to-year basis. The deductible for terrorism insurance shall not exceed \$100,000.00. A greater deductible amount carried by prudent owners of properties of substantially a similar type and quality as the Improvements situated in substantially similar locations as the Improvements are subject to Mortgagee's prior consent, which consent will not be unreasonably withheld, delayed, or conditioned. To the extent that the full amount of insurance coverage for terrorism and acts of terrorism required by this Mortgage is not available for a premium that does not exceed the Terrorism Premium Ceiling, Mortgagor shall, nevertheless, obtain as much of such coverage as may be purchased for not more than Terrorism Premium Ceiling. Further notwithstanding anything to the contrary herein, if a Rating Agency in connection with a Secondary Market Transaction or in connection with its rating surveillance of the certificates issued pursuant to a Secondary Market Transaction would not provide or maintain a rating (including, without limitation, any so-called "shadow" rating) for any portion of such certificates or the Loan which would otherwise be available but for the failure to maintain terrorism insurance with respect to the Loan (or the Loan among other loans included in the Secondary Market Transaction), Mortgagor shall purchase the comprehensive all risk insurance described above without an exclusion for terrorism or a separate policy with coverage for terrorism equal to that which would be including in a comprehensive all risk insurance described above with no exclusion for terrorism.

(ii) Business income and extra expense insurance (A) with loss payable to Mortgagee, (B) covering losses of income and Rents derived from the Premises and Improvements resulting from any risk or casualty required to be covered under Subparagraph (a)(i) of this Paragraph, (C) containing an extended period of indemnity endorsement which provides that after the Repair Work (defined below) is completed, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date the Repair Work is completed and ordinary course of business operations have resumed at the Premises and Improvements, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period, and (D) in an amount equal to one hundred percent (100%) of the projected gross income from the Mortgaged Property for a period of twelve (12) months. The amount of such business income and extra expense insurance shall be determined by Mortgagee prior to the date hereof and at least once each year thereafter based on Mortgagee's reasonable estimate of the gross income from the Mortgaged Property for the succeeding twelve (12) month period. All insurance proceeds payable to Mortgagee pursuant to this Subparagraph 2(a)(ii) shall be held by Mortgagee and shall be applied to the portion of the Debt then due and payable and disbursed to Mortgagor for payment

of the costs and expenses to maintain and operate the Premises and Improvements in such amounts and at such times as Mortgagee may determine; provided, however, that nothing herein contained shall be deemed to relieve Mortgagor of its obligation to pay the Debt on the respective dates of payment provided for in the Note except to the extent such amounts are actually paid out of the proceeds of such business income insurance. The perils covered by this insurance shall be the same as those accepted on the real property, including flood and earthquake, as necessary. This coverage shall be written on the same basis as the property policy stated in Subparagraph 2(a)(i) above.

(iii) The policy of insurance required pursuant to Subparagraph 2(a)(i) above shall contain the so-called "ordinance or law coverage" endorsements: Coverage A – Coverage For Loss to the Undamaged Portion of the Building, Coverage B – Demolition Cost Coverage, and Coverage C – Increased Costs of Construction in amounts satisfactory to Mortgagee.

(iv) If windstorm coverage is excluded from the policy required under Subparagraph 2(a)(i) above, Mortgagor must provide separate windstorm insurance in an amount equal to the lesser of the original principal balance of the Loan and the maximum amount permitted by law, if the Premises are located in an area where Mortgagee requires such insurance. Deductibles larger than five percent (5%) of the total insurable value (or such greater amount as is then commercially reasonable for properties of a similar type and location of the Improvements) are subject to approval by Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned.

(v) At all times during which structural construction, repairs or alterations are being made with respect to the Improvements: (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the commercial general liability insurance policy described in Subparagraph 2(b), and (B) the insurance provided for in Subparagraph 2(a)(i) written on a so-called builder's risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to Subparagraph 2(a)(i), (3) including permission to occupy the Improvements, and (4) with an agreed amount endorsement waiving co-insurance provisions. The amount of such coverage must be approved by Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned.

(b) **Commercial General Liability/Umbrella Liability.** Commercial general liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Premises and Improvements, such insurance (A) to be on the so-called "occurrence" form containing minimum limits per occurrence of \$1,000,000.00 and \$2,000,000.00 in the aggregate, together with excess and/or umbrella liability in an amount of at least \$10,000,000.00; (B) to contain a liquor

liability endorsement if any part of the Premises or Improvements are covered by a liquor license; (C) to continue at not less than the aforesaid limit until required to be changed by Mortgagee in its reasonable discretion in writing by reason of changed economic conditions making such protection inadequate; (D) to cover at least the following hazards, (1) premises and operations, (2) products and completed operations on an "if any" basis, (3) independent contractors, (4) blanket contractual liability for all written and oral contracts, (5) contractual liability covering the indemnities contained in Paragraph 36 hereof to the extent the same is available, and (6) all legal liability imposed upon Mortgagor and all court costs and attorneys' fee incurred in connection with the ownership, operation and maintenance of the Mortgaged Property; and (E) to be without any deductible.

(c) **Flood Insurance.** Flood insurance will be required if any portion of the Improvements is situated in a federally designated "special flood hazard area" (for example, Zones A and V) as designated by the Federal Emergency Management Agency, or any successor thereto, as an area having special flood hazards pursuant to the National Flood Insurance Act of 1968, The Flood Disaster Protection Act of 1973, or the National Flood Insurance Reform Act of 1994, as each may be amended, (the "Flood Insurance Acts"). The minimum amount of flood insurance required is the lesser of one hundred percent (100%) of the Full Replacement Cost (plus business income interruption coverage) for those portions of the Improvements located in such special flood hazard area, the maximum limit of coverage available for the Improvements under the Flood Insurance Acts, the maximum amount permitted by applicable law, or such lower amount as is carried by prudent owners of properties of substantially a similar type and quality as the Improvements, having flood risks substantially similar to the Improvements, and in locations substantially similar to the location where the Improvements are located. Deductibles larger than five percent (5%) of the total insurable amount (or such greater amount as is then commercially reasonable for properties of a similar type and location of the Improvements) are subject to approval by Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned.

(d) **Sinkhole, Mine Subsidence and Earthquake.** Sinkhole, mine subsidence and earthquake insurance shall be obtained and maintained if in the opinion of a professional engineer with experience in this professional area there is a foreseeable risk of loss due to this hazard. If necessary, as determined by such engineer, Mortgagor shall maintain coverage in the full principal amount of the Loan, but in no event more than the maximum amount permitted by applicable law. Deductibles larger than five percent (5%) of the total insurable amount (or such greater amount as is then commercially reasonable for properties of a similar type and location of the Improvements) are subject to approval by Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned.

(e) **Boiler and Machinery Coverage.** Comprehensive broad form boiler and machinery insurance (without exclusion for explosion) covering all steam boilers, heating

and air conditioning equipment, high pressure piping, machinery and equipment, sprinkler systems, pressure vessels, refrigeration equipment and piping, or similar apparatus now or hereafter installed in the Improvements (including "system breakdown coverage") and insuring against loss of occupancy or use arising from any breakdown, in an amount at least equal to the lesser of the outstanding principal amount of the Note, \$2,000,000.00, or the maximum amount permitted by applicable law. Deductibles larger than five percent (5%) of the total insured amount (or such greater amount as is then commercially reasonable for properties of a similar type and location of the Improvements) are subject to approval by Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned.

(f) **Worker's Compensation and Employer's Liability.** Workers' compensation, subject to the statutory limits of the state in which the Premises are located, and employer's liability insurance with a limit of at least \$1,000,000.00 per accident and per disease per employee, and \$1,000,000.00 for disease aggregate in respect of any work or operations on or about the Premises and Improvements, or in connection with the Premises and Improvements or their operation (if applicable).

(g) **Ground Leases.** All policies of insurance required to be maintained by Mortgagor as lessee under the Ground Lease.

(h) **Miscellaneous.** Such other insurance as may from time to time be reasonably required by Mortgagee in order to protect its interests, including such insurance as may or hereafter become available that Mortgagee reasonably deems prudent in light of then prevailing market or industry practices or applicable law.

All policies of insurance (the "Policies") required pursuant to this Paragraph 2 (i) shall be issued by companies approved by Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned, and licensed to do business in the state where the Premises are located, with a claims paying ability rating of "A" (or its equivalent) or better by Standard & Poor's Ratings or by Moody's Investors Service, Inc. and a rating of "A: IX" or better in the current Best's Insurance Reports, (ii) shall with respect to the Policies described in Paragraphs 2(a)(v)(A) and 2(b) above, name Mortgagee and its successors and/or assigns as their interest may appear as an additional insured and with respect to all other Policies provide that all proceeds be payable to Mortgagee, (iii) shall contain a non-contributory standard mortgagee clause, or its equivalent, naming Mortgagee as the person to which all payments made by such insurance company shall be paid, (iv) shall contain a waiver of subrogation against Mortgagee, (v) shall be maintained throughout the Term without cost to Mortgagee, (vi) shall be assigned to Mortgagee, (vii) shall contain such provisions as Mortgagee deems reasonably necessary or desirable to protect its interest including, without limitation, endorsements providing that Mortgagee shall not be liable for the payment of any of the Insurance Premiums, that neither Mortgagor, Mortgagee nor any other party shall be a co-insurer under said Policies, that no act or negligence of Mortgagor, or anyone acting for Mortgagor, or of any tenant under any Lease or other occupant, or failure to comply with the provisions of any Policy which might otherwise result in a forfeiture of the

insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Mortgagee is concerned, and that Mortgagee shall receive at least thirty (30) days prior written notice of any modification, reduction or cancellation, and (viii) shall be reasonably satisfactory in form and substance to Mortgagee and shall be approved by Mortgagee as to amounts, form, risk coverage, deductibles, loss payees and insureds, such approval not to be unreasonably withheld, delayed or conditioned. On or prior to the date hereof, Mortgagor shall deliver to Mortgagee either certified copies of the Policies in effect on the date hereof (the "Current Policies") or ACORD Form 25-S, Certificate of Liability Insurance, and ACORD Form 28 and/or Marsh Certificates (MM1 or MM3), Evidence of Commercial Property Insurance, (the "ACORD Certificates") with respect to the Current Policies (and each ACORD Certificate must specify the mortgagee, loss payee and additional insured status and/or waivers of subrogation, state the amounts of all deductibles and self-insured retentions, if any, set forth notice requirements for cancellation, material change, or non-renewal of insurance and be accompanied by copies of all required endorsements), provided that Mortgagor shall deliver to Mortgagee certified copies of the Current Policies not more than thirty (30) days after the date hereof. At least fifteen (15) days prior to the expiration of the Policies, Mortgagor shall deliver to Mortgagee either the original policies (or copies of the same certified by the issuers thereof) issued in renewal of each of the expiring Policies or ACORD Certificates with respect thereto, provided that Mortgagor shall deliver to Mortgagee the original policies (or copies of the same certified by the issuers thereof) issued in renewal of the expired Policies not more than thirty (30) days after the expiration of the subject Policies or upon actual issuance of the renewal policies. Subject to Paragraph 5 below, Mortgagor shall pay the premiums for such Policies (the "Insurance Premiums") as the same become due and payable and shall furnish to Mortgagee promptly upon demand evidence of the renewal of each of the Policies with receipts for the payment of the Insurance Premiums (if the issuer provides paid receipts on a timely basis) or other evidence of such payment reasonably satisfactory to Mortgagee (provided, however, that Mortgagor is not required to furnish such receipts for payment of Insurance Premiums in the event that no Event of Default exists and Mortgagor has previously deposited with Mortgagee sufficient funds to pay all such Insurance Premiums from the Tax and Insurance Impound). If Mortgagor does not furnish such evidence and receipts (if the issuer provides paid receipts on a timely basis) at least thirty (30) days prior to the expiration of any expiring Policy, then Mortgagee may procure, but shall not be obligated to procure, such insurance and pay the Insurance Premiums therefor, and Mortgagor agrees to reimburse Mortgagee for the cost of such Insurance Premiums promptly on demand. Mortgagor covenants and agrees to promptly forward to Mortgagee a copy of each written notice received by Mortgagor of any modification, reduction or cancellation of any of the Policies or of any of the coverages afforded under any of the Policies. 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 prudent customs and practices, and the like.

The insurance coverages required by this Paragraph 2 may be effected under a so-called "blanket" insurance policy, which covers other property in addition to the Premises and Improvements (the "Blanket Policy"), provided that the Blanket Policy (or certificate issued thereunder) shall specify, except in the case of commercial general liability insurance, the street

address of each building comprising the Improvements that are covered under such policy, the portion of the total coverage of such policy that is allocated to the Mortgaged Property, and shall in each case provide not less than the protection that would be provided under a separate policy insuring only the Mortgaged Property. With respect to the Blanket Policy, Mortgagor shall comply with all other terms and conditions of this Paragraph 2 as if such policy were one of the "Policies," except that Mortgagee shall accept certificates of insurance in lieu of copies of the Blanket Policy. Not less often than once per calendar year, Mortgagor shall cause to be delivered to Mortgagee a letter from the issuer of the Blanket Policy stating that insurance coverage for the Mortgaged Property will not be cancelled, terminated or reduced because of any matter relating to any property covered by the Blanket Policy that does not constitute any portion of the Mortgaged Property.

3. Casualty and Condemnation.

(a) If the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, and the cost to repair or replace the damage caused by such casualty or fire is estimated by Mortgagor in good faith to be more than \$250,000.00 (a "Casualty") or if Mortgagor shall have received written notice of the actual or threatened commencement of any condemnation or eminent domain proceeding that would affect any portion of the Premises or Improvements (a "Condemnation"), Mortgagor shall give prompt written notice thereof to Mortgagee and, with respect to a Condemnation, shall deliver to Mortgagee copies of any and all papers served in connection with such Condemnation.

(b) Mortgagee may participate in any proceedings for any taking by any public or quasi-public authority accomplished through a Condemnation or any transfer made in lieu of or in anticipation of a Condemnation (which transfer in lieu and Condemnation are collectively referred to as a "Taking") to the extent permitted by law. Upon Mortgagee's written request, Mortgagor shall deliver to Mortgagee all instruments requested by it to permit such participation. Mortgagor shall, at its expense, diligently prosecute any such proceedings, and shall consult with Mortgagee, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Mortgagor shall not consent or agree to a Taking without the prior written consent of Mortgagee in each instance, which consent shall not be unreasonably withheld, conditioned or delayed in the case of a Taking of an insubstantial portion of the Mortgaged Property.

(c) So long as the Debt is outstanding, subject to the terms of the Ground Lease and Paragraph 4 below, all insurance proceeds payable under the Policies and all awards or payments payable on account of a Taking ("Award"), and all causes of action, claims, compensation, awards and recoveries for any other damage, injury, or loss or diminution in value of the Mortgaged Property, are hereby assigned, transferred and set over to and shall be paid to Mortgagee. Mortgagor agrees to execute and deliver from time to time such further instruments as may be requested by Mortgagee to confirm the

foregoing assignment to Mortgagee. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as the attorney-in-fact of Mortgagor (which power of attorney shall be irrevocable so long as any of the Debt is outstanding, shall be deemed coupled with an interest, shall survive the voluntary or involuntary dissolution of Mortgagor and shall not be affected by any disability or incapacity suffered by Mortgagor subsequent to the date hereof), with full power of substitution, subject to the terms of Paragraph 4, to settle for, collect and receive all proceeds of insurance and any Award and any other awards, damages, insurance proceeds, payments or other compensation from the parties or authorities making the same, to appear in and prosecute any proceedings therefor and to give receipts and acquittance therefor.

(d) Mortgagee shall not be limited to the interest paid on an Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided in the Note. Mortgagor shall cause any Award, to the extent sufficient to pay the unpaid portion, if any, of the Debt, that is payable to Mortgagor to be paid directly to Mortgagee. If the Mortgaged Property is sold, through foreclosure or deed-in-lieu thereof, prior to the receipt by Mortgagee of the Award, Mortgagee shall have the right, subject to the terms of the Ground Lease, whether or not a deficiency judgment on the Note (to the extent permitted in the Note or herein) shall have been sought, recovered or denied, to receive the Award, or a portion thereof, to the extent sufficient to pay the unpaid portion, if any, of the Debt.

(e) The expenses incurred by Mortgagee in the adjustment and collection of the proceeds of insurance or an Award shall become part of the Debt and be secured hereby and shall be deducted by and reimbursed to Mortgagee from such proceeds.

4. Use of the Proceeds of Insurance or Award.

(a) In case of loss or damages covered by any of the Policies and in case of an Award for any Taking, the following provisions shall apply:

(i) In the event of a Casualty that does not exceed fifteen percent (15%) of the FMV (defined below) of the Premises and Improvements, 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; provided that such adjustment is carried out in a competent and timely manner. In such case, Mortgagor is hereby authorized to collect and receive any such insurance proceeds. As used in this Paragraph 4, the term "FMV" means the fair market value of Mortgagor's interest in the Premises and Improvements as set forth in the appraisal relied upon by Mortgagee as of the date hereof or any subsequent Qualifying Appraisal. As used in this Mortgage, the term "Qualifying Appraisal" means an appraisal report of the value of Mortgagor's Interest in the Premises and Improvements prepared by an appraiser licensed in the State where the Premises are located and who has at least five years' experience in appraising property similar to the Premises and Improvements in the county where the

Premises are located, satisfies the criteria for appraisals that may be relied upon by national banks under applicable Federal laws, rules and regulations, contains both an "as-is" and a "stabilized value" estimate, and is otherwise reasonably satisfactory to Mortgagee.

(ii) In the event of a Casualty that exceeds fifteen percent (15%) but does not exceed thirty percent (30%) of the FMV of the Premises and Improvements and HCP or an Affiliate of HCP that employs full-time professionals who are regularly engaged in the business of commercial real estate management of properties similar in size and type as the Improvements is in day-to-day management control of Mortgagor, then and in that event Mortgagor, acting by and through HCP or such Affiliate of HCP may settle and adjust any claim, provided, however, that any final agreement with the insurance company or companies of the amount to be paid for the Casualty shall be subject to the approval of Mortgagee as hereinafter provided, such approval not to be unreasonably withheld, delayed or conditioned. In any such case, the proceeds under the Policies shall be due and payable solely to Mortgagee and held in escrow by Mortgagee in accordance with the terms of this Mortgage. Mortgagee shall have the right to participate in the settlement discussions with the applicable insurance company or companies and Mortgagor shall keep Mortgagee apprised of all settlement offers and discussions and the results thereof. Mortgagor shall provide ten (10) business days advance written notice to Mortgagee of the terms and amount of any proposed final agreement on any such claim (such proposed final amount, the "Approved Settlement Amount"). If Mortgagee disapproves of Mortgagor's settlement of the claim on such terms and at such amount, Mortgagee must furnish written notice of such disapproval (any such notice, an "Arbitration Notice") to Mortgagor within ten (10) business days after Mortgagee's receipt of Mortgagor's notice, such notice of disapproval by Mortgagee to state Mortgagee's election to implement the arbitration procedure set forth in this Paragraph 4 below. Mortgagee's failure to furnish notice of disapproval prior to the expiration of such ten (10) business day period shall constitute and be deemed Mortgagee's consent and approval to Mortgagor's settlement of the applicable claim for an amount not less than the Approved Settlement Amount.

(iii) In the event of a Casualty that exceeds thirty percent (30%) of the FMV of the Premises and Improvements (or in the event of a Casualty that exceeds fifteen percent (15%) when neither HCP nor an Affiliate HCP described in clause (ii) preceding is in day-to-day management control of Mortgagor), then and in that event Mortgagee may settle and adjust any claim, provided, however, that any final agreement with the insurance company or companies of the amount to be paid for the Casualty shall be subject to the approval of Mortgagor as hereinafter provided, such approval not to be unreasonably withheld, delayed or conditioned. In any such case, the proceeds under the Policies shall be due and payable solely to Mortgagee and held in escrow by Mortgagee in accordance with

the terms of this Mortgage. Mortgagor shall have the right to participate in the settlement discussions with the applicable insurance company or companies and Mortgagee shall keep Mortgagor apprised of all settlement offers and discussions and the results thereof. Mortgagee shall provide ten (10) business days advance written notice to Mortgagor of the Approved Settlement Amount. If Mortgagor disapproves of Mortgagee's settlement of the claim on such terms and at such amount, Mortgagor must furnish an Arbitration Notice to Mortgagee within ten (10) business days after Mortgagor's receipt of Mortgagee's notice, such notice of disapproval by Mortgagor to state Mortgagor's election to implement the arbitration procedure set forth in this Paragraph 4 below. Mortgagor's failure to furnish notice of disapproval prior to the expiration of such ten (10) business day period shall constitute and be deemed Mortgagor's consent and approval to Mortgagee's settlement of the applicable claim for an amount not less than the Approved Settlement Amount.

(iv) In the event of (A) a Taking for which the Award is equal to or less than fifteen percent (15%) of the FMV of the Premises and Improvements or the Taking renders fifteen percent (15%) or less of the rentable square feet of the Improvements untenable or (B) in the event of a Casualty where the loss is in an aggregate amount equal to or less than thirty percent (30%) of the FMV of the Premises and Improvements or the Casualty renders thirty percent (30%) or less of the rentable square feet of the Improvements untenable, and (1) no Event of Default or an event which with notice and/or the passage of time would constitute an Event of Default exists and (2) in the reasonable judgment of Mortgagee (i) the Mortgaged Property can be restored within the time period that business income interruption insurance will be payable under the coverage obtained by Mortgagor pursuant to Paragraph 2(a)(ii) above and in all events not less than six (6) months prior to the stated Maturity Date, (ii)(x) as restored the FMV of and the net income (i.e., gross revenues less all customary and regular operating expenses, including debt service) from the Mortgaged Property will not be less than the FMV of and net cash flow from the Mortgaged Property that existed immediately prior to the Casualty or Taking or (y) Leases covering in the aggregate not less than sixty-five percent (65%) of the rentable square feet of the Improvements will be in full force and effect during and upon completion of the Repair Work (defined below), (iii) all necessary government approvals will be obtained to allow the rebuilding and reoccupancy of the Improvements, and (iv) there are sufficient sums available (through insurance proceeds, the Award and contributions by Mortgagor, the full amount of which contribution shall at Mortgagee's option have been deposited with Mortgagee) for the Repair Work (including, without limitation, for any reasonable costs and expenses of Mortgagee to be incurred in administering the Repair Work) and for payment of the Debt as it becomes due and payable during the Repair Work, then, and only then, the proceeds of insurance or of the Award (after reimbursement of any reasonable expenses incurred by Mortgagee) shall be applied in the manner set forth below to reimburse Mortgagor for the cost of

restoring, repairing, replacing or rebuilding (collectively the "Repair Work") the Mortgaged Property or part thereof subject to the Casualty or Taking. Mortgagor hereby covenants and agrees to commence (subject to the availability of insurance proceeds for such purpose) and diligently to prosecute the Repair Work; provided always, that Mortgagor shall pay all costs (and if reasonably required by Mortgagee, Mortgagor shall deposit the total thereof with Mortgagee in advance) of the Repair Work in excess of the net proceeds of insurance or Award made available pursuant to the terms hereof.

(v) Except as provided above in Subparagraph 4(a)(iv), in the event of any Casualty or Taking Mortgagee may elect in its absolute sole discretion and without regard to the adequacy of the security for the Debt, to (A) apply the proceeds of insurance collected upon any Casualty or Award collected upon any Taking to the payment of the Debt and require Mortgagor to prepay the remaining outstanding Allocated Loan Amount (defined in Paragraph 11A(b)(iv) below) and receive a release of the lien of this Mortgage, or (B) hold the insurance proceeds or Award proceeds and make them available to Mortgagor for the cost of the Repair Work in the manner set forth below. If Mortgagee elects under this Subparagraph to apply the proceeds of insurance or Award to the payment of the Debt, any such application to the Debt shall be considered an Involuntary Prepayment not requiring payment of the prepayment consideration set forth below. The term "Involuntary Prepayment" shall mean an amount or amounts that Mortgagee receives representing (i) insurance proceeds or other payments as a result of a Casualty, or (ii) Awards or other payments made in connection with a Taking. If Mortgagee elects to apply the proceeds of insurance collected upon any Casualty or Award collected upon any Taking to the payment of the Debt and the amount of such proceeds so applied do not pay the Allocated Loan Amount in full, Mortgagor shall have the right on any regularly scheduled payment date under the Note, but not the obligation, to prepay the entire remaining outstanding Allocated Loan Amount and receive a release of the lien of this Mortgage; provided, however, if the remaining outstanding Allocated Loan Amount is more than fifty percent (50%) of the entire outstanding Allocated Loan Amount at the time proceeds of insurance or an Award are applied to the Debt, Mortgagor shall pay Mortgagee an additional amount equal to the Yield Maintenance Premium calculated pursuant to Paragraph 11A(b)(i)(B) of this Mortgage that would be required hereunder if such remaining outstanding portion of the Allocated Loan Amount were prepaid pursuant to said Paragraph 11A. Any application to the Debt pursuant to this Subparagraph 4(a)(v) shall 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.

(vi) In the event Mortgagor is either entitled to disbursements from the insurance proceeds or Award proceeds held by Mortgagee or Mortgagee elects to make such proceeds available to Mortgagor for the Repair Work, such proceeds

shall be disbursed to Mortgagor for costs and expenses incurred by Mortgagor for the Repair Work following (A) the receipt by Mortgagee of a written request from Mortgagor for disbursement and a certification by Mortgagor to Mortgagee that the applicable portion of Repair Work has been completed, (B) the delivery to Mortgagee of invoices, receipts or other evidence verifying the cost of performing the applicable portion of Repair Work, and (C) for disbursement requests in excess of \$200,000.00 with respect to any single Repair Work, or for any single Repair Work that is structural in nature, delivery to Mortgagee of (1) affidavits, conditional lien waivers or other evidence reasonably satisfactory to Mortgagee showing that all materialmen, laborers, subcontractors and any other parties who might or could claim statutory or common law liens and are furnishing or have furnished material or labor to the Mortgaged Property have been, or upon receipt of the payment described in such affidavit or conditional lien waiver will have been, paid all amounts due for labor and materials furnished to the Mortgaged Property, (2) a certification from an inspecting architect or other third party acceptable to Mortgagee describing the completed portion of the Repair Work and verifying its completion and value, and (3) a new (or amended) certificate of occupancy for the portion of the Improvements covered by such Repair Work, if said new certificate of occupancy is required by law, or a certification by Mortgagor that no new certificate of occupancy is required by law. Mortgagee shall not be required to make any such advances more frequently than one time in any calendar month. If the plans and specifications for the Repair Work call for material changes to the Improvements as the same existed on the date of the casualty or Taking, Mortgagee may require that such plans and specifications for the Repair Work be submitted to and approved by Mortgagee prior to commencement of the Repair Work, which approval shall not be unreasonably withheld, delayed or conditioned. In no event shall Mortgagee assume any duty or obligation for the adequacy, form or content of any such plans and specifications, nor for the performance, quality or workmanship of any Repair Work. With respect to disbursements to be made by Mortgagee, no payment made prior to the final completion of the Repair Work shall exceed ninety percent (90%) of the value of the Repair Work performed from time to time; funds other than proceeds of insurance or the Award shall be disbursed prior to disbursement of such 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 Repair Work, free and clear of all liens or claims for lien. Any surplus which may remain out of the proceeds of insurance or Award held by Mortgagee after payment of the costs of the Repair Work shall be paid to Mortgagor or, if an Event of Default exists, shall in the sole and absolute discretion of Mortgagee, be retained by Mortgagee and applied to payment of the Debt or paid to the party or parties legally entitled to such surplus.



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(vii) If Mortgagor or Mortgagee deliver an Arbitration Notice to the other party, Mortgagor and Mortgagee shall, within five (5) business days after such other party's receipt of any such notice, jointly designate an independent and unaffiliated individual who has not less than ten (10) years experience with respect to settlement of claims resulting from casualties in respect of properties similar to the Premises and Improvements. Not later than five (5) business days after such joint designation of such individual, Mortgagor and Mortgagee shall submit to such individual their separate determinations of the commercially reasonable settlement amount for the applicable Casualty together with any documentation and other backup therefor and shall simultaneously therewith provide a copy of such submission to the other party. The individual so appointed shall review the applicable submissions and within ten (10) days after such individual's designation either select one of the submitted settlement amounts or an amount in between the submitted settlement amounts as more accurately reflective of the commercially reasonable settlement amount. Notice of such selection shall be furnished to Mortgagor and Mortgagee by the applicable individual prior to the expiration of such ten-day period. Upon such selection, Mortgagee or Mortgagor, as the case may be pursuant to clauses (ii) and (iii) above, shall be authorized to settle the applicable claim for an amount not less than the settlement amount so selected without any further right of consent of the other party.

(viii) In the event that Mortgagor and Mortgagee are unable to agree on one individual to act as arbitrator within the five (5) business day period following a party's receipt of the Arbitration Notice as contemplated under Subparagraph (a)(vii) above, then, in such case, the procedure set forth in this clause (viii) shall be observed in lieu thereof. Not later than five (5) business days after a party's receipt of an Arbitration Notice, Mortgagor and Mortgagee shall each designate an independent and unaffiliated individual who has not less than ten (10) years experience with respect to settlement of claims resulting from casualties in respect of properties similar to the Premises and Improvements and notify the other party of such appointment by identifying the appointee. Not later than five (5) business days after both arbitrators are appointed, the two selected arbitrators shall select a third arbitrator who shall also be an independent and unaffiliated individual who has not less than ten (10) years experience with respect to settlement of claims resulting from casualties in respect of properties similar to the Premises and Improvements, such selection to take place within five (5) business days after such arbitrator's appointment. Mortgagor and Mortgagee shall submit to such third arbitrator their separate determinations of the commercially reasonable settlement amount together with any documentation and other backup therefor and shall simultaneously therewith provide a copy of such submission to the other party. The third arbitrator so appointed shall review the applicable submissions and within ten (10) days after such individual's designation select one of the submitted settlement amounts. Notice of such selection shall be furnished to Mortgagor and Mortgagee by the applicable individual prior to the expiration of

such ten-day period. Upon such selection, Mortgagee or Mortgagor, as the case may be pursuant to clauses (ii) and (iii) above, shall be authorized to settle the applicable claim for an amount not less than the settlement amount so selected without any further right of consent of the other party.

(ix) Time shall be of the essence with respect to the performance of any and all rights and obligations under this Paragraph 4. The decisions of the arbitrator(s), if any, engaged under this Paragraph 4, shall be final and binding and may not be appealed to any court of competent jurisdiction or otherwise except upon a claim of fraud or corruption. All of the reasonable costs and expenses of the arbitrator(s), if any, engaged under this Paragraph 4, shall be the sole responsibility of Mortgagor.

(x) Notwithstanding anything to the contrary contained herein, the proceeds of insurance or Award disbursed to Mortgagor in accordance with the terms and provisions of this Mortgage shall be reduced by the reasonable costs (if any) incurred by Mortgagee in the adjustment and collection thereof and by the reasonable costs incurred by Mortgagee of paying out such proceeds (including, without limitation, reasonable attorneys' fees and costs paid to third parties for inspecting the Repair Work and reviewing the plans and specifications therefor).

(b) If Mortgagor undertakes the Repair Work, Mortgagor shall promptly and diligently, at Mortgagor's sole cost and expense and regardless of whether the insurance proceeds or Award, as applicable, shall be sufficient for the purpose, complete the Repair Work to restore the Mortgaged Property as nearly as possible to its value, condition and character immediately prior to the Casualty or Taking in accordance with the foregoing provisions.

(c) Any partial reduction in the Debt resulting from Mortgagee's application of any sums received by it under this Paragraph 4 shall take effect only when Mortgagee actually receives such sums and elects to apply such sums to the Debt and, in any event, the unpaid portion of the Debt shall remain in full force and effect and Mortgagor shall not be excused in the payment thereof. Partial payments received by Mortgagee, as described in the preceding sentence, shall be applied against the Note consistent with the prepayment provisions described therein for casualty or condemnation proceeds.

5. Tax and Insurance Impound.

(a) Upon the occurrence of any T&I Triggering Event (as defined below), Mortgagor shall comply with all of the terms and provisions of Subparagraph (b) of this Paragraph 5. As used in this Paragraph 5, the term "T&I Triggering Event" means any one of the following: (i) Mortgagor fails to deliver to Mortgagee receipts for payment or other evidence reasonably satisfactory to Mortgagee that the Taxes and Other Charges then due and payable have been paid or are not then delinquent no later than thirty (30) days prior to the date on which the Taxes and/or Other Charges would otherwise be

delinquent if not paid and such failure continues for thirty (30) days after notice to Mortgagor from Mortgagee of such failure; or (ii) Mortgagor fails to 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 at least thirty (30) days prior to the expiration of any expiring Policy and such failure continues for ten (10) days after notice to Mortgagor from Mortgagee of such failure; or (iii) any Event of Default exists.

(b) Commencing on the sixth (6th) day of the first calendar month occurring following the occurrence of any T&I Triggering Event (the "T&I Start Date") and continuing on the first day of each calendar month thereafter, Mortgagor shall pay to Mortgagee an amount equal to (i) one-twelfth of the Taxes that Mortgagee reasonably 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 (ii) one-twelfth of the Insurance Premiums that Mortgagee reasonably estimates will be payable for the renewal of the coverage afforded by the Policies (allocable to the Mortgaged Property) 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 (the fund into which said amounts provided for in clauses (i) and (ii) of this Subparagraph above shall be deposited is hereinafter called the "Tax and Insurance Impound"). The monthly payment into the Tax and Insurance Impound and the monthly payments payable pursuant to the Note shall be added together and shall be paid as an aggregate sum by Mortgagor to Mortgagee. Mortgagor agrees to notify Mortgagee immediately of any changes to the amounts, schedules and instructions for payment of any Taxes and Insurance Premiums of which it has or obtains knowledge and authorizes Mortgagee or its agent to obtain the bills for Taxes and Other Charges directly from the appropriate taxing authority. Mortgagor hereby pledges to Mortgagee and grants to Mortgagee a security interest in any and all monies now or hereafter deposited in the Tax and Insurance Impound as additional security for the payment of the Debt. Provided that there are sufficient amounts on deposit in the Tax and Insurance Impound and no Event of Default exists, Mortgagee will apply the Tax and Insurance Impound to payments of Taxes and Insurance Premiums required to be made by Mortgagor pursuant hereto. In making any payment relating to the Tax and Insurance Impound, 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 the amounts on deposit in the Tax and Insurance Impound shall exceed the amounts due for Taxes and Insurance Premiums, Mortgagee shall return any excess to Mortgagor or credit such excess against future payments to be made to the Tax and Insurance Impound. In allocating such excess, Mortgagee may deal with the person shown on the records of Mortgagee to be the owner of the Mortgaged Property. If at any time Mortgagee reasonably determines that the amounts on deposit in the Tax and Insurance Impound are not or will not be sufficient to pay the Taxes and Insurance

Premiums, Mortgagee shall notify Mortgagor of such determination and Mortgagor shall increase its monthly payments to Mortgagee by the amount that Mortgagee reasonably 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. On the T&I Start Date, Mortgagor shall also pay to Mortgagee on demand for deposit into the Tax and Insurance Impound an amount equal to (x) one-twelfth of the Taxes reasonably estimated by Mortgagee to be due to the applicable taxing authorities as of the date such Taxes are first due and payable without penalty or interest after the T&I Start Date multiplied by the number of months elapsed from and including the first month for which such Taxes have been assessed to and including the first month occurring after the month in which the T&I Start Date occurs plus (y) one-twelfth of the Insurance Premiums that Mortgagee reasonably estimates will be payable for the renewal of the coverage afforded by the Policies upon the expiration thereof multiplied by the number of months elapsed from and including the first month in which then effective Policies became effective to and including the first month occurring after the month in which the T&I Start Date occurs. Whenever an Event of Default exists, Mortgagee may apply any sums then present in the Tax and Insurance Impound to the payment of the Debt in any order in its sole discretion. Until expended or applied as above provided, any amounts in the Tax and Insurance Impound shall constitute additional security for the Debt. The Tax and Insurance Impound shall not constitute a trust fund and may be commingled with other monies held by Mortgagee. Unless otherwise required by applicable law, Mortgagor shall not receive interest or other earnings on the Tax and Insurance Impound, which shall be held in Mortgagee's name at a financial institution selected by Mortgagee in its sole discretion. Following the delivery and recording of a satisfaction, release, reconveyance or discharge of this Mortgage duly executed by Mortgagee, any funds remaining on deposit in the Tax and Insurance Impound will be disbursed to Mortgagor.

(c) If Mortgagee so elects at any time, Mortgagor shall provide, at Mortgagor's reasonable expense, a tax service contract for the Term issued by a tax reporting agency acceptable to Mortgagee. If Mortgagee does not so elect, Mortgagor shall reimburse Mortgagee for the reasonable cost of making annual tax searches throughout the Term.

6. Replacement and Cancelled Lease Escrow Funds.

(a) At any time and from time to time, Mortgagee may give Mortgagor written notice of any replacements or repairs that Mortgagee has reasonably determined are required to be made to the Mortgaged Property by Mortgagor as required by the provisions of Paragraph 10 below and are not being made, said determination to be made pursuant to the written report of a property inspection company. Mortgagee's notice to Mortgagor of such required replacements or repairs shall include a copy of such inspector's report. Mortgagor shall have one hundred eighty (180) days after receipt of such notice to make all of such replacements and repairs to Mortgagee's reasonable satisfaction, provided that if Mortgagor can establish to Mortgagee's reasonable

satisfaction that any such replacement or repair cannot by its nature or extent reasonably be expected to be completed within such one hundred eighty (180) day period Mortgagor shall have such additional period of time as may be reasonably necessary to complete such repair or replacement if during such one hundred eighty (180) day period Mortgagor commences and thereafter continuously and diligently prosecutes such replacement or repair to completion (such one hundred eighty (180) day period or such period plus such additional time is sometimes referred to as the "Repair Period"). The Repair Period shall be extended for as long as the making of all such replacements and repairs is prevented, hindered or delayed, in whole or in part, by any circumstance beyond Mortgagor's reasonable control, including without limitation any act of God, war, civil disturbance, court order, acts or regulations of governmental bodies, labor disputes, any failure or loss of supply or market, failure of a third party's performance, nonperformance by a third party, failure, fluctuation or non-availability of electrical power, heat, light, air conditioning or telecommunications equipment, provided that Mortgagor continues to use its commercially reasonable efforts to recommence the completion of the repair and restoration whenever and to whatever extent possible without delay, including through the use of alternate sources, work around plans or other means. If Mortgagor fails to comply with the terms of the foregoing provisions of this Subparagraph in the manner and time period herein contemplated, then commencing on the sixth (6th) day of the calendar month occurring after the end of the Repair Period and immediately following the notice referred to in this sentence Mortgagor shall pay to Mortgagee on such sixth (6th) day of such month and the sixth (6th) day of each calendar month thereafter for deposit into the account described below (the "Replacement Escrow Fund") an amount equal to one-twelfth of the amount reasonably estimated by Mortgagee in its reasonable discretion to assure the availability of funds for repairs and replacements to the Mortgaged Property during the ensuing calendar year, which amount Mortgagee shall give to Mortgagor by written notice. In addition, if Mortgagor fails to comply with the terms of the foregoing provisions of this Subparagraph in the manner and time period herein contemplated, then not less than twenty (20) days after written demand from Mortgagee, Mortgagor shall pay to Mortgagee the amount Mortgagee reasonably estimates it will cost to effect the replacements or repairs that Mortgagee has reasonably determined are required to be made to the Mortgaged Property but have not been made. Mortgagor hereby pledges to Mortgagee any and all monies now or hereafter deposited in the Replacement Escrow Fund as additional security for the payment of the Debt. Provided that no Event of Default exists, subject to Mortgagee's prior approval, which approval shall not be unreasonably withheld, delayed or conditioned, Mortgagee shall make disbursements from the Replacement Escrow Fund as requested in writing by Mortgagor on a monthly basis in increments of no less than \$1,000.00 following delivery by Mortgagor of copies of (x) paid or unpaid invoices for the amounts requested, (y) a signed certificate from Mortgagor stating (1) the nature and type of the related replacement or repair, (2) that the related replacement or repair has been completed in a good and workmanlike manner and (3) that the related replacement or repair has been paid for in full or will be paid for in full from the requested disbursement and (z) if reasonably required by Mortgagee, 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 \$50,000.00 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 reasonable expense prior to making a disbursement in order to verify completion of replacements and repairs for which such disbursement is sought. The Replacement Escrow Fund shall be held in an interest bearing account in Mortgagee's name at a financial institution selected by Mortgagee in its sole discretion if the interest bearing account customarily used by Mortgagee for such purposes constitutes a Permitted Investment (defined below). If such account does not constitute a Permitted Investment, the Replacement Escrow Fund shall be held in a non-interest bearing account. All earnings or interest on the Replacement Escrow Fund shall be and become a part of such Replacement Escrow Fund and shall be disbursed as provided in this Paragraph 6(a). All costs and expenses charged by the financial institution to establish and maintain the Replacement Escrow Fund account shall be paid by Mortgagor; Mortgagee may charge such costs and expenses directly against the Replacement Escrow Fund; and Mortgagor shall thereafter pay to Mortgagee on demand for deposit into the Replacement Escrow Fund the full amount of any such costs and expenses that remain unpaid. If an Event of Default exists, Mortgagee may apply any sums then present in the Replacement Escrow Fund to the payment of the Debt in any order in its sole discretion. The Replacement Escrow Fund shall not constitute a trust fund and may be commingled with other monies held by Mortgagee. Following payment of the Debt in full or a defeasance and the delivery and recording of a satisfaction, release, reconveyance or discharge of this Mortgage duly executed by Mortgagee, any funds remaining on deposit in the Replacement Escrow Fund will be disbursed to Mortgagor. As used in this Paragraph 6, the term "Permitted Investment" means certificates of deposit or time deposits with maturities of less than 365 days of any bank, savings and loan association or savings bank; provided, however, that the investments described in this sentence (A) must have a predetermined fixed dollar of principal due at maturity that cannot vary or change, (B) if rated by S&P, must not have an "r" highlighter affixed to their rating, (C) if such investments have a variable rate of interest, such interest rate must be tied to a single interest rate index plus a fixed spread (if any) and must move proportionately with that index, and (D) must not be subject to liquidation prior to their maturity.

(b) Mortgagor shall pay to Mortgagee for deposit into the account described below (the "Cancelled Lease Escrow Fund") all funds received by Mortgagor from tenants in connection with the cancellation or termination of Leases (hereinafter "Cancelled Lease"), including, but not limited to, cancellation or termination fees and penalties, and reimbursement of tenant improvements, leasing commissions or other charges (together the "Cancellation Payments"), in each instance when an individual tenant's Cancellation Payment is in excess of \$100,000.00. Mortgagor hereby pledges to Mortgagee any and all monies now or hereafter deposited in the Cancelled Lease Escrow

Fund as additional security for the payment of the Debt. Provided that no Event of Default exists, Mortgagee shall make disbursements from the Cancelled Lease Escrow Fund as follows: (i) the entire amount on deposit in the Cancelled Lease Escrow Fund with respect to any Cancelled Lease shall be disbursed to Mortgagor following receipt by Mortgagee of a fully executed Lease covering the space (or a proportionate amount on deposit in the Cancelled Lease Escrow Fund shall be disbursed to Mortgagor following receipt by Mortgagee of a fully executed Lease covering part of such space) that had been covered by such Cancelled Lease and which otherwise complies with the requirements for Leases entered into by Mortgagor in accordance with Paragraph 7 below and the Assignment (a "New Lease"), and a signed tenant estoppel certificate in form and substance reasonably satisfactory to Mortgagee from the tenant under the New Lease to the effect that (1) such tenant is occupying all of the space covered by such New Lease and is open for business, (2) all tenant improvements obligations of landlord under such New Lease have been satisfied, (3) tenant knows of no defaults on such landlord's part under such New Lease, and (4) tenant is paying rent as required under such New Lease without setoff or deduction, or (ii) prior to the time, if ever, that Mortgagor satisfies the conditions of clause (i) immediately preceding, Mortgagee shall disburse to Mortgagor on the first day of each calendar month commencing the first full calendar month after Mortgagee's receipt from Mortgagor of the Cancellation Payments an amount equal to the monthly base rental payment that was last payable under the Cancelled Lease, which disbursement shall continue each month until the earlier of either the disbursement of all funds in the Cancelled Lease Escrow Fund or the occurrence of an Event of Default. The Cancelled Lease Escrow Fund shall be held in an interest bearing account in Mortgagee's name at a financial institution selected by Mortgagee in its sole discretion if the interest bearing account customarily used by Mortgagee for such purposes constitutes a Permitted Investment. If such account does not constitute a Permitted Investment, the Cancelled Lease Escrow Fund shall be held in a non-interest bearing account. All earnings or interest on the Cancelled Lease Escrow Fund shall be and become a part of such Cancelled Lease Escrow Fund and shall be disbursed as provided in this Subparagraph. All costs and expenses charged by the financial institution to establish and maintain the Cancelled Lease Escrow Fund account shall be paid by Mortgagor; Mortgagee may charge such costs and expenses directly against the Cancelled Lease Escrow Fund; and Mortgagor shall thereafter pay to Mortgagee on demand for deposit into the Cancelled Lease Escrow Fund the full amount of any such costs and expenses that remain unpaid. If an Event of Default exists, Mortgagee may apply any sums then present in the Cancelled Lease Escrow Fund to the payment of the Debt in any order in its sole discretion. The Cancelled Lease Escrow Fund shall not constitute a trust fund and may be commingled with other monies held by Mortgagee. Following payment of the Debt in full or a defeasance and the delivery and recording of a satisfaction, release, reconveyance or discharge of this Mortgage duly executed by Mortgagee, any funds remaining on deposit in the Cancelled Lease Escrow Fund will be disbursed to Mortgagor.

7. Leases and Rents.

(a) For Ten Dollars (\$10.00) and other good and valuable consideration, including the indebtedness evidenced by the Note, the receipt and sufficiency of which are hereby acknowledged and confessed, Mortgagor has absolutely ASSIGNED, GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does absolutely and unconditionally ASSIGN, GRANT, BARGAIN, SELL, and CONVEY the Rents unto Mortgagee, in order to provide a source of future payment of the Debt subject only to the permitted exceptions applicable thereto and the License (herein defined), it being the intention of Mortgagor and Mortgagee that this conveyance be presently and immediately effective; TO HAVE AND TO HOLD the Rents unto Mortgagee, forever, and Mortgagor does hereby bind itself, its successors, and assigns to warrant and forever defend the title to the Rents unto Mortgagee against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, that if Mortgagor shall pay or cause to be paid the Debt as and when the same shall become due and payable, then this assignment shall terminate and be of no further force and effect, and all rights, titles, and interests conveyed pursuant to this assignment of rents shall become vested in Mortgagor without the necessity of any further act or requirement by Mortgagor or Mortgagee.

(b) Mortgagee hereby grants to Mortgagor a limited license (the "License") subject to termination of the License and the other applicable terms and provisions of Paragraph 25 hereof, to exercise and enjoy all incidences of the status of a lessor with respect to the Rents, including without limitation, the right to collect, demand, sue for, attach, levy, recover, and receive the Rents, and to give proper receipts, releases, and acquittances therefor. Whenever an Event of Default exists, Mortgagor hereby agrees to receive all Rents and hold the same to be applied, and to apply the Rents so collected, first to the payment of the Debt, next to the performance and discharge of the Obligations, and next to the payment of all expenses associated with the ownership and operation of the Mortgaged Property; at any other time, Mortgagor may use the Rents collected in any lawful manner, subject to Paragraphs 49(vi) and (vii) of this Mortgage. Neither this assignment nor the receipt of Rents by Mortgagee shall effect a pro tanto payment of any portion of the Debt, and such Rents shall be applied as provided in this Paragraph 7. Furthermore, and notwithstanding the provisions of this Paragraph 7, no credit shall be given by Mortgagee for any Rents until the money collected is actually received by Mortgagee, and no such credit shall be given for any Rents after foreclosure or transfer in lieu of foreclosure of the Mortgaged Property (or part thereof from which Rents are derived pursuant to this Mortgage) to Mortgagee or any other third party.

(c) Upon receipt from Mortgagee of a Lease Rent Notice (as defined in Paragraph 25 hereof), each lessee under the Leases is hereby authorized and directed to pay directly to Mortgagee all Rents thereafter accruing, and the receipt of Rents by Mortgagee shall be a release of such lessee to the extent of all amounts so paid. The receipt by a lessee under the Leases of a Lease Rent Notice shall be sufficient

authorization for such lessee to make all future payments of Rents directly to Mortgagee and each such lessee shall be entitled to rely on such Lease Rent Notice and shall have no liability to Mortgagor for any Rents paid to Mortgagee after receipt of such Lease Rent Notice. Rents so received by Mortgagee for any period prior to foreclosure under this Mortgage or acceptance of a deed in lieu of such foreclosure shall be applied by Mortgagee to the payment of the following in such order and priority as Mortgagee shall determine: (i) the Debt and all expenses incident to taking and retaining possession of the Mortgaged Property and/or collecting Rent as it becomes due and payable and (ii) all expenses associated with the ownership and operation of the Premises and Improvements. In no event will this Paragraph 7 reduce the Debt except to the extent, if any, that Rents are actually received by Mortgagee and applied upon or after said receipt to the Debt in accordance with the preceding sentence. Without impairing its rights hereunder, Mortgagee may, at its option, at any time and from time to time, release to Mortgagor Rents so received by Mortgagee or any part thereof. As between Mortgagor and Mortgagee, and any person claiming through or under Mortgagor, other than any lessee under the Leases who has not received a Lease Rent Notice, this assignment of Rents is intended to be absolute, unconditional and presently effective (and not an assignment for additional security), and the Lease Rent Notice hereof is intended solely for the benefit of each such lessee and shall never inure to the benefit of Mortgagor or any person claiming through or under Mortgagor, other than a lessee who has not received such notice. It shall never be necessary for Mortgagee to institute legal proceedings of any kind whatsoever to enforce the provisions of this Mortgage with respect to Rents. **MORTGAGOR SHALL HAVE NO RIGHT OR CLAIM AGAINST ANY LESSEE FOR THE PAYMENT OF ANY RENTS TO MORTGAGEE HEREUNDER.**

(d) At any time during which Mortgagee is receiving Rents directly from lessees under the Leases, Mortgagee shall have the right (but shall be under no duty) to demand, collect and sue for, in its own name or in the name of Mortgagor, all Rents that are more than thirty (30) days past due and unpaid.

(e) To the extent required by applicable law, security deposits of tenants, whether held in cash or any other form, shall not be commingled with any other funds of Mortgagor. All security deposits of tenants held in cash shall be deposited by Mortgagor at such nationally or regionally recognized commercial bank or banks. If Mortgagor determines that a tenant is not entitled to the return of all or any portion of its security deposit and such tenant makes the claim that its security deposit constitutes a payment of rental income and not a security deposit, Mortgagor shall exercise commercially reasonable efforts to assure against a successful claim by such tenant. Mortgagor also agrees to maintain books and records of sufficient detail to identify all such security deposits separate and apart from any other payments received from tenants. Any bond or other instrument which Mortgagor is permitted to hold in lieu of cash security deposits under any applicable legal requirements shall be maintained in full force and effect in the full amount of such deposits unless replaced by cash deposits as hereinabove described, shall, if permitted pursuant to any legal requirements, name Mortgagee as payee or

beneficiary thereunder (or at Mortgagee's option, be fully assignable to Mortgagee [but without naming Mortgagee as payee]) and shall, in all respects, comply with any applicable legal requirements. Whenever an Event of Default exists, 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.

(f) Mortgagor covenants and agrees (i) to perform punctually all material obligations and agreements to be performed by it as lessor or party thereto under the Leases; (ii) to do all things necessary or appropriate in the ordinary course of its business to compel performance by each other party to each of such instruments of such other party's obligations and agreements thereunder; (iii) not to collect any of the Rents more than one (1) month in advance; (iv) not to execute any other assignment of lessor's interest in the Leases or the Rents and (v) not to permit any subletting of any space covered by a Lease or an assignment of the tenant's rights under a Lease except in strict accordance with the terms of such Lease. Except as otherwise permitted hereunder, Mortgagor shall not give any notice, approval or consent or exercise any rights under or in respect of any Lease, which action, omission, notice, approval, consent or exercise of rights would release any tenant or other party from, or reduce any tenant's obligations or liabilities under, or would result in the termination, surrender or assignment of, or the amendment or modification in any material adverse respect, or would impair the validity of, any Lease, if any of the foregoing would result in a Material Adverse Effect, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed, and any attempt to do any of the foregoing without such consent shall be of no force and effect.

(g) Mortgagor will promptly deliver to Mortgagee a copy of any notice from any other party to any Lease claiming that Mortgagor is in material default in the performance or observance of any of the terms, covenants or conditions thereof to be performed or observed by Mortgagor. Following Mortgagee's written request, Mortgagor shall deliver to Mortgagee a duplicate original or certified copy of each Lease and each amendment, modification, or waiver of each Lease.

(h) Mortgagor may enter into any Lease which is not inconsistent with the provisions of this Paragraph 7 and the other applicable provisions of this Mortgage and the Loan Documents, if any. Each Lease entered into after the date hereof and each renewal or extension on or after the date hereof of any Lease (a "Renewal Lease") shall (i) be with a tenant whom Mortgagor has reasonably determined is creditworthy in light of the financial obligations to be assumed by such tenant under any Material Lease and with respect to tenants under all other Leases Mortgagor has made a prudent decision in the ordinary course of its business to enter into the Lease, (ii) have an initial term of not less than three (3) or more than ten (10) years, (iii) provide for rent and other items to be payable in amounts at least equal to the fair market rental value (taking into account the

type and quality of the tenant and the space covered by such Lease), as of the date such Lease or Renewal Lease is executed by Mortgagor (unless, in the case of a Renewal Lease, the rent payable during such renewal, or a formula or other method to compute such rent, is provided for in the original Lease), (iv) not have a Material Adverse Effect on the value of the Premises and Improvements as a whole or the ability of Mortgagor to pay the Debt, (v) constitute an arm's-length transaction with a bona fide, independent third-party tenant, (vi) be expressly subject and subordinate to this Mortgage and contain provisions for the agreement by the tenant thereunder to attorn to Mortgagee and any purchaser at a foreclosure sale, such attornment to be self-executing and effective upon acquisition of title to the Premises and Improvements by any purchaser at a foreclosure sale, (which attornment agreement by tenant may be conditioned upon Mortgagee's agreement to a customary and reasonable non-disturbance provision), (vii) require the tenant thereunder to execute and deliver to Mortgagor an estoppel certificate addressing the issues set forth in Paragraph 12(b) of this Mortgage, and (viii) be written on the standard form of lease (without any material changes) approved in writing by Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned (and Mortgagee acknowledges approval of Mortgagor's standard form of lease in use as of the date hereof). Subject to the provisions below covering Material Leases, Mortgagor may, without the consent of Mortgagee, amend, modify or waive the provisions of any Lease, provided that such action is in the normal course of Mortgagor's business in a manner which is consistent with sound and customary leasing and management practices for similar properties in the community in which the Improvements are located, does not have a material adverse effect upon the FMV of any of the Premises and Improvements, and provided further that such Lease, as amended, modified or waived, is otherwise in compliance with the requirements of this Mortgage and the other Loan Documents, as applicable. Following Mortgagee's written request, Mortgagor shall deliver to Mortgagee a duplicate original or certified copy of the amendment, modification or waiver. Subject to the provisions below covering Material Leases, Mortgagor may terminate or permit the termination of any Lease or accept surrender of all or any portion of the space demised under any Lease or acquire any Lease or reduce the rentals reserved under or shorten the term of any Lease so long as such action is in the normal course of Mortgagor's business in a manner which is consistent with sound and customary leasing and management practices for similar properties in the community in which the Improvements are located, and does not materially adversely affect the FMV of the Premises and Improvements (taking into account the planned alternative uses of the space) or the ability of Mortgagor to pay the Debt. All Leases and Renewal Leases, and amendments, modifications, terminations or waivers thereof not meeting the foregoing requirements may not be entered into by Mortgagor without the prior written approval of Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned.

(i) Mortgagor shall not enter into any Lease with an Affiliate of Mortgagor without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed. Mortgagor shall not enter into any Lease that grants

the tenant thereunder a right or option to purchase all or any portion of the Premises and Improvements.

(j) Notwithstanding anything contained herein to the contrary, Mortgagor shall not, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed, enter into, renew, extend, amend, modify, waive any provisions of, terminate, permit the termination of, or accept surrender of all or any portion of the space demised under, any Material Lease. The term "Material Lease" means any existing Lease that covers and proposed lease agreement that would cover fifteen percent (15%) or more of the gross leaseable area of the Improvements, and any existing Lease that accounts or proposed lease agreement that would account for fifteen percent (15%) or more of the total gross base rental revenues from all Leases. Nothing in this Subparagraph shall prohibit Mortgagor from renewing and extending a Material Lease existing as of the date hereof or a Material Lease that is subsequently approved by Mortgagee pursuant to the terms hereof if the terms of the renewed Material Lease are substantially and materially the same as those of the Material Lease immediately prior to its renewal and if the rental rate thereunder is not materially less than the then prevailing fair market rental rate for similar space in improvements similar to the Improvements located in the market in which the Improvements are located.

(k) If the terms of this Mortgage require Mortgagor to obtain Mortgagee's prior consent for a particular Lease, Renewal Lease or modification or amendment thereof (e.g., a Lease that does not satisfy all of the applicable requirements of Subparagraph 7(h) of this Mortgage), the same must be submitted to Mortgagee for its review and approval, such approval not to be unreasonably withheld, delayed or conditioned. In addition, each Material Lease and any modification, amendment, waiver, renewal or extension of a Material Lease also must be submitted to Mortgagee for its review and approval, such approval not to be unreasonably withheld, delayed or conditioned. (Each Material Lease, Lease, Renewal Lease or modification, amendment, waiver, renewal or extension thereof that is submitted to Mortgagee under this Subparagraph is sometimes referred to as a "Lease Under Review"). Mortgagee may disapprove a Lease Under Review because, among other reasons, it reasonably determines (based upon its own review and investigation) that the proposed tenant is not sufficiently creditworthy in light of the obligations to be undertaken by such tenant under the Lease Under Review. Mortgagee shall have fifteen (15) business days after its receipt of a Lease Under Review to approve or disapprove the same or to request additional information or materials in connection with its review (the "Additional Due Diligence Material"). If Mortgagee disapproves a Lease Under Review, Mortgagee shall provide Mortgagor with a written explanation of the reasons for disapproval. A Lease Under Review will be deemed approved if Mortgagee has not approved or disapproved the same within fifteen (15) business days of its receipt of such Lease Under Review, provided that such Lease Under Review is accompanied by a separate notice addressed to Mortgagee containing the following statement printed in bold font and all uppercase letters: **"REQUEST FOR LEASE APPROVAL: IF LENDER DOES NOT APPROVE OR**

DISAPPROVE THE MATTER DESCRIBED IN THIS PACKAGE WITHIN FIFTEEN (15) BUSINESS DAYS OF ITS RECEIPT, SUCH MATTER SHALL BE DEEMED APPROVED.” If Mortgagee requests Additional Due Diligence Material within the time period referred to above with respect to a particular Lease Under Review, then that Lease Under Review will be deemed approved if Mortgagee has not approved or disapproved the same within fifteen (15) business days of its receipt of such Additional Due Diligence Material, provided that the Additional Due Diligence Material is accompanied by the notice described in the immediately preceding sentence.

8. Transfer or Encumbrance of the Mortgaged Property.

(a) Mortgagor acknowledges that Mortgagee has examined and relied on the creditworthiness and experience of Mortgagor and its Controlling Principal 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 or performance of the Obligations, Mortgagee can recover the Debt by a sale of the Mortgaged Property. Accordingly, except for Transfers (as defined below) expressly permitted by the terms of this Mortgage below, Mortgagor covenants and agrees not to effect any Transfer or permit any other Transfer to occur without in each instance the prior written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion. Any Transfer not permitted by this Mortgage made without the prior written consent of Mortgagee shall constitute an Event of Default and Mortgagee shall have the option to exercise any and all remedies on account of the same, including accelerating the Maturity Date and declaring the entire outstanding Debt immediately due and payable, and 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. A Transfer not permitted by this Mortgage shall include any Transfer consummated without Mortgagor having satisfied all of the conditions precedent set forth below applicable to such Transfer. This Subparagraph shall apply to every Transfer whether voluntary or not, or whether or not Mortgagee has consented to any previous Transfer. No indebtedness other than the Debt may be secured (subordinate or pari passu) by the Mortgaged Property.

(b) The term “Transfer” means (i) any voluntary or involuntary (excluding a Taking), sale, conveyance, assignment, alienation, disposition, mortgage, encumbrance, pledge or other transfer of all or any part of the Mortgaged Property (including any conditional sale or other title retention agreement, any sale-leaseback, any financing lease or similar transaction having substantially the same economic effect as any of the foregoing, the filing of any financing statement or similar instrument under the Uniform Commercial Code or comparable law of any other jurisdiction, domestic or foreign, and any option to purchase, right of first refusal, right of first offer or similar right, but

excluding any such transaction occurring simultaneously with a permitted repayment of the Loan), (ii) any direct, indirect, voluntary or involuntary, sale, conveyance, assignment, alienation, disposition, or other transfer of all or any portion of the equity interests in Mortgagor or through constituent parties if the same results, directly or indirectly, in a Change of Control of Mortgagor, including any transfer of such equity interests resulting from the death of a natural person or by operation of law if such transfer results, directly or indirectly, in a Change of Control of Mortgagor, (iii) the granting of any mortgage, lien, pledge, hypothecation, assignment, preference, priority, security interest, or any other encumbrance or charge on any direct equity interest in, or right to distributions from Mortgagor, the Governing Member, or the sole member of the Governing Member (including any similar transaction having substantially the same economic effect as any of the foregoing, the filing of any financing statement or similar instrument under the Uniform Commercial Code or comparable law of any other jurisdiction, domestic or foreign, and any option to purchase, right of first refusal, right of first offer or similar right, but excluding any such transaction occurring simultaneously with a permitted repayment of the Loan), or (iv) the issuance of preferred equity (or debt granting the holder thereof rights substantially similar to those generally associated with preferred equity) by Mortgagor or any holder of a direct interest in Mortgagor, the Governing Member, or the sole member of the Governing Member. A "Transfer" includes, without limitation, (A) an installment sales agreement wherein Mortgagor agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments; (B) an agreement by Mortgagor leasing all or a substantial part of the Premises or Improvements for other than actual possession by a space tenant thereunder pursuant to a Lease in accordance with the terms of the applicable Loan Documents; and (C) a sale, assignment, pledge, encumbrance 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. Agreements between Mortgagor and tenants that constitute Leases under this Mortgage are governed by the Assignment and Paragraph 7 of this Mortgage and not by this Paragraph 8. A "Transfer" also includes each of the transactions described in Subparagraph (e)(i), (viii), (xi), (xii), (xiii), (xvi), (xviii), and (xv) and Subparagraph (f) below,

(c) Mortgagee's consent to any Transfer shall not be deemed to be a waiver of Mortgagee's right to require such consent to any future Transfer. Any Transfer made in contravention of this Paragraph 8 shall be null and void and of no force and effect.

(d) Subject to the terms of this Subparagraph, Mortgagor shall pay or reimburse Mortgagee on demand all actual, reasonable out-of-pocket expenses incurred by Mortgagee in connection with the review, approval and documentation of any Transfer, including, without limitation, reasonable attorneys' fees and disbursements, title search costs and title insurance endorsement premiums, Rating Agency fees and the cost of a legal opinion reasonably acceptable to Mortgagee that the Transfer will not cause any trust created in connection with a Secondary Market Transaction to fail to qualify as a REMIC.

(e) For the purposes of this Mortgage, the following terms have the meanings ascribed to them:

(i) “Affiliate Transfer” means (A) the merger or consolidation of Mortgagor with or into an Affiliate of a Controlling Principal or (B) the sale, transfer or conveyance of the ownership interests in Mortgagor or any entity directly or indirectly Controlled by a Controlling Principal to an Affiliate of such Controlling Principal, provided that in either instance, such Controlling Principal or an Affiliate of such Controlling Principal remains, directly or indirectly, in day-to-day control of Mortgagor and employs or engages full-time professionals who are regularly engaged in the business of commercial real estate management of properties similar in size and type as the Improvements.

(ii) “Assumption Agreement” means an agreement in form and substance reasonably acceptable to Mortgagee by which a Transferee agrees to assume all of the Debt and Obligations and abide and be bound by the terms of the Note, this Mortgage and the other Loan Documents.

(iii) “Birmingham Portfolio” means HCP Birmingham Portfolio, LLC, a Delaware limited liability company, which as of the date hereof owns, indirectly, the equity ownership interests in Mortgagor.

(iv) “Change of Control” means that upon the consummation of any Transfer where (A) Mortgagor is not Controlled by the Controlling Principal immediately prior thereto or (B) any portion of Mortgagor’s leasehold estate in the Premises is conveyed to any Person that is not a Controlling Principal immediately prior thereto.

(v) “Control” of any Person means the possession, directly or indirectly, through one or more Persons, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise. (Without limiting the generality of the foregoing, with respect to any general or limited partnership, the general partner shall be deemed to Control such partnership.) (The terms “Controlled” and “Controlling” each have the meanings correlative thereto.)

(vi) “Controlling Principal” means one or more Persons that Control Mortgagor as of the date hereof or that Control Mortgagor immediately following any other Transfer consummated in accordance with the terms of this Mortgage. As of the date hereof, HCP is the indirect Controlling Principal of the Governing Member and Mortgagor.

(vii) “Deposit” means an expense deposit in an amount that Mortgagee reasonably estimates will be incurred for reasonable attorneys’ fees and costs, and

third-party report costs and expenses, title insurance charges and premiums, and recording taxes, fees or charges.

(viii) “Estate Transfer” means a Transfer (A) for bona fide estate planning purposes between solely an Interest Holder and such Interest Holder’s Family Members as Transferees or (B) occurs solely by devise, descent or by operation of law upon the death or judicial determination of the incapacity of a natural Person and all of the Transferees are, directly or indirectly, (1) Family Members, (2) trusts in which all of the trustees and all of the beneficiaries are Interests Holders and/or Family Members, or (3) other Persons that are Majority Owned and Controlled by Family Members.

(ix) “Family Member” means a spouse, sibling, child, grandchild, aunt, uncle, niece, nephew, cousin or other lineal descendant of the individual in question.

(x) “Interest Holder” means each Person owning any direct or indirect equity ownership interest of Mortgagor as of the date hereof and any Person obtaining a direct or indirect equity ownership interest in Mortgagor after the date hereof pursuant to a Transfer that is consummated in accordance with the applicable terms of this Mortgage, including, without limitation, pursuant to a JV Transfer or a JD Transfer.

(xi) “Interest Holder Transfer” means the sale and conveyance by an Interest Holder of all or a portion of its direct or indirect equity ownership interests in Mortgagor. (The term “Interest Holder Transfer” does not include a JV Transfer, a JD Transfer or a Stock Transfer, but does include the sale or conveyance by an Interest Holder of its direct or indirect equity ownership interests in Mortgagor if such Interest Holder acquired its direct or indirect equity ownership interests in Mortgagor through a JV Transfer, JD Transfer or a Stock Transfer.)

(xii) “JD Transfer” means a transfer or sale of equity ownership interests in Birmingham Portfolio to Johnson Development, L.L.C., an Alabama limited liability company or an Affiliate thereof (“JD”), provided that (A) less than twenty percent (20%) of the equity ownership interests in Birmingham Portfolio are transferred or sold to JD (whether in one or more transfers or sales) and (B) Birmingham Portfolio remains, directly or indirectly, Majority Owned and Controlled by the Controlling Principal immediately prior thereto.

(xiii) “JV Transfer” means a sale, transfer or conveyance of all or a portion of a Controlling Principal’s direct or indirect equity ownership interests in Mortgagor such that, upon the consummation of such Transfer, Mortgagor is or remains a Single Purpose Entity Controlled, directly or indirectly, by a joint venture between such Controlling Principal or an Affiliate of such Controlling

Principal, on the one hand, and one or more Qualified Investor(s) or an Affiliate of such Qualified Investor(s), on the other hand, and which joint venture entity (whether existing or to be formed) remains under the day-to-day management control of such Controlling Principal and, through its Governing Member, such Controlling Principal continues to have day-to-day management control of Mortgagor and the Mortgaged Property). In connection with any such JV Transfer, the joint venture entity may issue preferred equity to the partners, members, shareholders or other equity holders thereof upon such terms as the parties thereto may agree.

(xiv) “Majority Owned” means the ownership, directly or indirectly, of any amount of the equity ownership interests in excess of fifty percent (50%) in, or the right to any amount of the equity distributions in excess of fifty percent (50%) from, any Person.

(xv) “New Guaranty” means a guaranty agreement in form, scope, and substance as is the Guaranty executed by Guarantor, except that if any provision thereof has terminated in accordance with its terms, such guaranty agreement shall not contain such terminated provisions.

(xvi) “Permitted Transfer” means, subject to the applicable conditions set forth in this Paragraph, (A) an Interest Holder Transfer that does not result in a Change of Control; provided, however, that an Interest Holder Transfer to HCP or any Affiliate of HCP shall be deemed a Permitted Transfer even if the same results in a Change of Control so long as HCP remains or becomes the Controlling Principal as a result thereof, (B) an Estate Transfer that does not result in a Change of Control, (C) a JV Transfer, (D) an Affiliate Transfer, (E) a Stock Transfer, and (F) a JD Transfer.

(xvii) “Person” or “person” includes an individual, corporation, partnership, limited liability company, trust, unincorporated association, government, governmental authority, and any other legal entity.

(xviii) “Property Transfer” means the sale, assignment, or other conveyance of the Mortgaged Property in its entirety.

(xix) “Publicly-Held” shall mean, with respect to any Person, the outstanding voting securities of such Person are registered under Section 12(b) or Section 12(g) of the Securities and Exchange Act of 1934, as amended (or any successor legislation thereto) or subject to the reporting requirements under Section 12(d) thereof (or any successor legislation thereto).

(xx) “Qualified Investor” means a bank, saving and loan association, investment bank, insurance company, trust company, commercial credit corporation, pension plan, pension fund or pension advisory firm, mutual fund,

government entity or plan, real estate investment company, real estate investment trust, investment fund, or an institution substantially similar to any of the foregoing, provided in each case that (x) such Person has total assets (in name or under management) in excess of \$600 million and (except with respect to a pension advisory firm or similar fiduciary) capital/statutory surplus or shareholder's equity in excess of \$200 million (in both cases, exclusive of its interest in the Mortgaged Property), and is regularly engaged in the business of owning and/or investing in and/or operating income properties in metropolitan areas, and (y) if Mortgagee reasonably determines that a Rating Confirmation is required in connection with a JV Transfer involving such Qualified Investor or an Affiliate thereof, a Ratings Confirmation is received with respect thereto (unless Mortgagee determines that Ratings Confirmation is not required).

(xxi) "Rating Agencies" means each of Standard & Poor's Ratings Services, a division of McGraw-Hill Companies, Inc., Moody's Investor Service, Inc., and Fitch, Inc., or any other nationally-recognized statistical rating agency which has been approved by Mortgagee.

(xxii) "Ratings Confirmation" means the written recommendations from the Rating Agencies to the effect that the subject transaction will not result in a requalification, reduction or withdrawal of any rating initially assigned or to be assigned in a Secondary Market Transaction.

(xxiii) "REMIC" means a "real estate mortgage investment conduit" within the meaning of Section 860D of the Internal Revenue Code.

(xxiv) "Secondary Market Transaction" has the same meaning given to the term "Securitization" in the Loan Cooperation Agreement.

(xxv) "Single-Purpose Entity" means a Person in material compliance with Subparagraphs (a) through (r) of Paragraph 9 below.

(xxvi) "Stock Transfer" means, with respect to any Controlling Principal which is Publicly-Held or a Qualified Investor, the issuance, sale, conveyance or transfer of securities (including the issuance of preferred equities or debt) of such Controlling Principal, including by merger, consolidation, or otherwise and whether or not such Controlling Principal or Qualified Investor is the surviving or disappearing entity and any sale of all or substantially all of the assets of such Controlling Principal or Qualified Investor to another Publicly-Held Person or Qualified Investor.

(xxvii) "Surviving Guarantor" means each Person identified as Guarantor on page 1 of this Mortgage who upon the consummation of any Transfer continues, directly or indirectly, to Control Mortgagor, and any Transferee Guarantor who upon consummation of a Transfer continues to Control Mortgagor.

(xxviii) "Transferee" means, in connection with any Transfer, the Person to whom the ownership interests (whether in the Mortgaged Property or direct or indirect equity interests in Mortgagor) are to be sold, assigned, conveyed or otherwise transferred under the subject Transfer; provided no Transferee shall ever be a Person that as of the effective date of the subject Transfer is then, or in the previous ten (10) year period had ever been, a debtor in a bankruptcy or reorganization proceeding, or has ever been convicted of, or is then a defendant in a criminal enforcement proceeding involving, any crime classified as a felony under applicable law or involving charges of moral turpitude or fraud.

(xxix) "Transferee Guarantor" means, in connection with any Transfer, the Person whom it is proposed will execute a New Guaranty (unless such Person is a Guarantor).

(xxx) "Transferor" means the Person whose direct or indirect ownership interests in Mortgagor are the subject of the Transfer.

(f) The following Transfers may be consummated without Mortgagee's consent, without the payment of any transfer fee (including the Transfer Fee defined below), and without receipt of Ratings Confirmation or a legal opinion with respect to REMIC status, (i) the disposition of any item of personalty that is (1) replaced by an article of at least equal suitability and value or (2) no longer needed for the operation of the Premises or Improvements, and (ii) the grant of one or more easements or licenses affecting specifically delineated portions of the Premises and Improvements for utility and similar purposes, provided that the easement will not result in a Material Adverse Effect.

(g) A Permitted Transfer may be consummated without Mortgagee's prior consent, without the payment of any transfer fee (including the Transfer Fee defined below), and without receipt of Ratings Confirmation or a legal opinion with respect to REMIC status, if, and only if, all of the following conditions are first satisfied.

(i) If such Permitted Transfer results in a Change of Control, Mortgagor delivers to Mortgagee not more than thirty (30) days after the date such Permitted Transfer is consummated (A) a signed certificate to the effect that the Transfer is a Permitted Transfer that satisfies in all material respects the applicable provisions of this Paragraph 8, including, without limitation, the conditions of this Subparagraph and (B) true, correct and complete copies of all material instruments that govern such Permitted Transfer and which identifies the Transferee.

(ii) No Event of Default exists.

(iii) There is no change in the Property Manager, except as permitted in Paragraph 1(j) above.

(iv) The legal and financial structure of Mortgagor and the single purpose nature of Mortgagor continues to satisfy all of the applicable requirements of this Mortgage (including Paragraph 9); provided that as long as Mortgagor is in compliance with all of the applicable requirements of this Mortgage (including Paragraph 9), the direct or indirect equity ownership interests in Mortgagor may be owned by more than one Person.

(v) Mortgagee shall have received the Non-Consolidation Opinion (as defined in Paragraph 9 below) if required pursuant to Subparagraph (j) below.

(vi) If pursuant to any Permitted Transfer, Mortgagor is not the surviving entity, all of the following shall have been satisfied prior to or contemporaneously with the consummation of such Permitted Transfer:

(A) Without any cost or expense to Mortgagee, Transferee executes and delivers to Mortgagee an Assumption Agreement and executes and delivers such other documents as Mortgagee may reasonably request in form and substance as are the other Loan Documents executed by Mortgagor as of the date hereof.

(B) Transferee delivers to Mortgagee evidence reasonably satisfactory to Mortgagee that Transferee is a single purpose entity whose sole business purpose is to own only the Mortgaged Property and which satisfies all of the applicable requirements of this Mortgage (including, without limitation, Paragraph 9), and the governing organizational document of Transferee contains provisions substantially similar to the so-called "special purpose entity provisions" required by Mortgagee to be in the governing organizational document of Mortgagor as of the date hereof.

(C) Mortgagee is in receipt of all documents evidencing Transferee's existence and good standing and the authority of the Person who executes the Assumption Agreement and other Loan Documents on behalf of Transferee, which documents shall include, without limitation, certified copies of all documents relating to the organization and formation of the Transferee and Transferee's qualification to do business in the State where the Premises are located that are on file with any governmental jurisdiction.

(D) Mortgagee is in receipt of legal opinions from Transferee's counsel that are in form, scope and substance similar in all material respects to the legal opinions delivered to Mortgagee with respect to Mortgagor as of the date hereof, including the enforceability of the Assumption Agreement, and all such opinions must be reasonably acceptable to Mortgagee and its counsel.



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(E) Mortgagee is in receipt of (1) evidence that all of the applicable terms and provisions of Paragraph 2 of this Mortgage with respect to the Policies are satisfied and (2) an endorsement to Mortgagee's title insurance policy insuring the lien of this Mortgage in the customary form available in the State where the Premises are located to the effect that (i) the lien of this Mortgage continues to be a first and prior lien with respect to the Premises and Improvements, notwithstanding the Permitted Transfer and (ii) if any person other than the Mortgagor named herein is the record owner of the leasehold estate in the Premises upon consummation of the Permitted Transfer, the Transferee is the sole owner of such leasehold estate.

(h) If an Estate Transfer or Interest Holder Transfer does not satisfy the conditions to be consummated as a Permitted Transfer because it results in a Change of Control (except as set forth therein), such Transfer may nevertheless be consummated (without the payment of any transfer fee (including the Transfer Fee), if all of the following conditions are first satisfied:

(i) Upon the consummation of the Transfer and except as otherwise permitted by the terms of this Mortgage, no Person (other than through its ownership of securities in a Publicly-Held entity or equity or securities of a Qualified Investor) holds any ownership interest, directly or indirectly, in the Mortgaged Property or in any Person owning any interest, directly or indirectly, in the Mortgaged Property, unless such Person holds such ownership interest as of the date hereof or acquired such ownership interest after the date hereof in accordance with the terms of this Mortgage (including, without limitation, pursuant to a JV Transfer or JD Transfer).

(ii) No Event of Default exists.

(iii) There is no change in the Property Manager, except as permitted in Paragraph 1(j) above.

(iv) Mortgagor delivers or causes to be delivered to Mortgagee not less than thirty (30) days prior to the Interest Holder Transfer or not less than thirty (30) days after the Estate Transfer (A) true, correct and complete copies of all material instruments that govern such Transfer and which identifies the Transferee and, if the Change of Control is due to a transfer of Controlling interests in Guarantor or any other Transferee Guarantor, the new Transferee Guarantor; (B) information, including financial statements, credit reports and tax returns, concerning the Transferee and, if applicable, Transferee Guarantor as Mortgagee required from Mortgagor and Guarantor in connection with the Loan and such Transferee and Transferee Guarantor authorize Mortgagee to conduct the same kinds of background searches and to obtain the same kinds of credit information as Mortgagor and Guarantor authorized Mortgagee in connection with the Loan.

(v) Mortgagee approves in writing the Transferee and, if applicable, Transferee Guarantor, which approval will not be unreasonably withheld, delayed, or conditioned. In determining whether to give or withhold its approval of the Transferee, Mortgagee may consider the experience of the owners of Transferee in owning and operating facilities similar to the Premises and Improvements and such persons' general business standing and relationships with contractors, vendors, tenants, lenders and other business entities. Mortgagee shall approve a Transferee if such Persons' experience in owning and operating facilities similar to the Premises and Improvements and general business standing and relationships with contractors, vendors, tenants, lenders and other business entities are not materially less than those of the owners of such Persons' Transferor as of the date hereof. (In connection with a Transfer under this Subparagraph, a proposed Transferee cannot be disapproved by Mortgagee due to Mortgagee's assessment of the financial strength of the owners of such Transferee; provided, however, if such owners are also proposed as Transferee Guarantors then Mortgagee may take their financial strength into account, but may do so only in accordance with the standards below governing approval of Transferee Guarantors.) Mortgagee shall approve a Transferee Guarantor if such Person's financial strength and creditworthiness are not materially less than those as of the date hereof of the Guarantor being replaced. In any event, however, Transferee Guarantor's financial strength and creditworthiness shall be deemed satisfactory to Mortgagee if (A) with respect to the Section 1.2 Obligations (defined below) its net worth is at least \$50 million as shown on the financial statements of such proposed Transferee Guarantor submitted to Mortgagee, unless Mortgagee provides such proposed Transferee Guarantor with written evidence that reasonably supports Mortgagee's belief that Transferee Guarantor's actual net worth is materially less than that shown on its financial statements and (B) with respect to the Special Obligations (defined below) it is a Qualified Investor or, if not, is rated "BBB+" (or its equivalent) or better by Standard & Poor's Ratings or by Moody's Investors Service, Inc. (a "Qualified Guarantor"). If Mortgagee disapproves a Transferee or Transferee Guarantor, if applicable, Mortgagor shall have thirty (30) days to engage in such transactions as it elects, including submitting another proposed Transferee or Transferee Guarantor as the case may be, in order to satisfy the requirements of this Subparagraph, so long as all such transactions satisfy all other applicable terms and conditions of this Mortgage. Notwithstanding the foregoing terms of this clause (v), so long as Guarantor's net worth is at least \$50 million, Mortgagor shall have such time as is reasonably necessary to submit a proposed Transferee or Transferee Guarantor, as applicable; provided, however, that if as of one hundred eighty (180) days after the Estate Transfer or Interest Holder Transfer a proposed Transferee or Transferee Guarantor, if applicable, has not been proposed to and accepted by Mortgagee pursuant to the terms of this clause (v), then Mortgagor shall deliver or cause to be delivered to Mortgagee a letter of credit or other reasonably acceptable credit enhancement in an amount reasonably acceptable to Mortgagee taking into consideration the financial

wherewithal as of the date hereof of the Transferor or Guarantor being replaced. The term (1) "Section 1.2 Obligations" means all of the obligations of Guarantor under Section 1.2 of the Guaranty and (2) "Special Obligations" means all of the obligations of Guarantor under Sections 1.3, 1.4, 1.5, and 1.6 of the Guaranty to the extent the same remain in full force and effect.

(vi) The legal and financial structure of Mortgagor and the single purpose nature of Mortgagor continues to satisfy all of the applicable requirements of this Mortgage (including Paragraph 9); provided that as long as Mortgagor is in compliance with all of the applicable requirements of this Mortgage (including Paragraph 9), the direct and indirect equity ownership interests in Mortgagor may be owned by more than one Person.

(vii) If reasonably required by Mortgagee, Mortgagor and, if applicable, Guarantor, if a Surviving Guarantor, shall have executed and delivered to Mortgagee such documents as Mortgagee may reasonably require affirming the continued effectiveness of all of the Loan Documents notwithstanding the Transfer effected pursuant to this Subparagraph; if applicable, Transferee Guarantor executes and delivers a New Guaranty to Mortgagee; and Transferee and Transferee Guarantor's counsel, as applicable, deliver legal opinions to Mortgagee that are in form, scope and substance similar in all material respects to the legal opinions delivered to Mortgagee as of the date hereof with respect to Mortgagor and/or the Guarantor being replaced, and such opinions are reasonably acceptable to Mortgagee and its counsel.

(viii) If Mortgagee reasonably determines it necessary and prudent to do so, Mortgagee shall have received (A) written recommendations from the Rating Agencies to the effect that the proposed Transfer will not result in a requalification, reduction or withdrawal of any rating initially assigned or to be assigned in a Secondary Market Transaction and (B) a legal opinion in form and substance reasonably acceptable to Mortgagee that the proposed Property Transfer will not cause any trust created in connection with a Secondary Market Transaction to fail to qualify as a REMIC. If for any reason the conditions in this clause (viii) are not satisfied, Mortgagor and/or Transferee shall have not more than ninety (90) days to engage in such transactions as each elects in order for the conditions in this clause (viii) to be satisfied, so long as all such transactions satisfy all applicable terms and conditions of this Mortgage.

(ix) Mortgagor pays to Mortgagee (A) for an Estate Transfer or Interest Holder Transfer, as the case may be, consummated prior to a Secondary Market Transaction, an administrative processing fee of \$2,500.00 or (B) for an Estate Transfer or Interest Holder Transfer, as the case may be, consummated after a Secondary Market Transaction, an administrative processing fee not to exceed the then customary and normal such fee charged by the servicer of the Loan for

processing and reviewing transfers similar to the subject Transfer in connection with other commercial mortgage loans similar to the Loan Mortgagor and (C) pays all of Mortgagee's actual, reasonable out-of-pocket costs and expenses incurred by Mortgagee in connection with the Estate Transfer or Interest Holder Transfer, as the case may be, including, without limitation, reasonable attorneys' fees and disbursements, third party report fees, and, if applicable, the fees and costs incurred pursuant to clause (viii) of this Subparagraph.

(x) Mortgagee shall have received the Non-Consolidation Opinion (as defined in Paragraph 9 below) if required pursuant to Subparagraph (j) below.

Without limiting the foregoing in this Subparagraph, if an Estate Transfer or Interest Holder Transfer, as the case may be, has been consummated following satisfaction of all of the conditions precedent set forth in this Subparagraph and if Guarantor is replaced by a Transferee Guarantor who has executed and delivered a New Guaranty, Guarantor shall be released from all obligations under the Guaranty, but only as to acts or events occurring, or obligations arising, after consummation of such Estate Transfer or Interest Holder Transfer, as the case may be. The foregoing release shall be evidenced in a separate agreement between Mortgagee and Guarantor.

(i) A Property Transfer may be consummated if, and only if, all of the following conditions are first satisfied.

(i) No Event of Default exists.

(ii) Mortgagor gives Mortgagee written notice of the terms of such prospective Property Transfer not less than sixty (60) days before the date on which such Property Transfer is scheduled to be consummated and at the same time delivers to Mortgagee a fully executed copy of the purchase and sale agreement or other agreement that evidences and governs the proposed transaction.

(iii) Mortgagor delivers or causes to be delivered to Mortgagee information, including financial statements, credit reports and tax returns, concerning the proposed Transferee and the proposed Transferee Guarantor as Mortgagee required from Mortgagor and Guarantor in connection with the Loan and such Transferee and Transferee Guarantor authorize Mortgagee to conduct the same kinds of background searches and to obtain the same kinds of credit information as Mortgagor and Guarantor authorized Mortgagee in connection with the Loan.

(iv) Mortgagee approves in writing the Transferee and Transferee Guarantor, which approval will not be unreasonably withheld, delayed, or conditioned. In determining whether to give or withhold its approval of the Transferee, Mortgagee may consider the experience of the owners of Transferee in

owning and operating facilities similar to the Premises and Improvements and such Persons' general business standing and relationships with contractors, vendors, tenants, lenders and other business entities. Mortgagee shall approve a Transferee if such Persons' experience in owning and operating facilities similar to the Premises and Improvements and general business standing and relationships with contractors, vendors, tenants, lenders and other business entities are not materially less than those of the owners of such Persons' Transferor as of the date hereof. Mortgagee shall approve a Transferee Guarantor if such Person's financial strength and creditworthiness are not materially less than those as of the date hereof of the Guarantor being replaced. In any event, Transferee Guarantor's financial strength and creditworthiness shall be deemed satisfactory to Mortgagee if (A) with respect to the Section 1.2 Obligations its net worth is at least \$50 million as shown on the financial statements of such proposed Transferee Guarantor submitted to Mortgagee in connection with the Property Transfer, unless Mortgagee provides such proposed Transferee Guarantor with written evidence that reasonably supports Mortgagee's belief that Transferee Guarantor's actual net worth is materially less than that shown on its financial statements and (B) with respect to the Special Obligations it is a Qualified Guarantor. If Mortgagee disapproves a Transferee or Transferee Guarantor, if applicable, Mortgagor shall have thirty (30) days to engage in such transactions as it elects, including submitting another proposed Transferee or Transferee Guarantor as the case may be, in order to satisfy the requirements of this Subparagraph, so long as all such transactions satisfy all other applicable terms and conditions of this Mortgage.

(v) If a change in the Property Manager is proposed, Transferee's selection of a proposed property manager is approved as provided for in Paragraph 1(j) above with respect to new property managers (and Mortgagee reserves the right to approve the Transferee without approving the substitution of the Property Manager), and such new property manager and Transferee execute a Manager's Consent substantially in form and substance as executed by Property Manager and Mortgagor as of the date hereof.

(vi) If Mortgagee reasonably determines it necessary and prudent to do so, Mortgagee shall have received (A) written recommendations from the Rating Agencies to the effect that the proposed Property Transfer will not result in a requalification, reduction or withdrawal of any rating initially assigned or to be assigned in a Secondary Market Transaction and (B) a legal opinion in form and substance reasonably acceptable to Mortgagee that the proposed Property Transfer will not cause any trust created in connection with a Secondary Market Transaction to fail to qualify as a REMIC. If for any reason the conditions in this clause (vi) are not satisfied, Mortgagor and/or Transferee shall have not more than thirty (30) days to engage in such transactions as each elects in order for the

conditions in this clause (vi) to be satisfied, so long as all such transactions satisfy all applicable terms and conditions of this Mortgage.

(vii) Without any cost or expense to Mortgagee, (A) Transferee executes and delivers to Mortgagee an Assumption Agreement and executes and delivers such other documents as Mortgagee may reasonably request in form and substance as are the other Loan Documents executed by Mortgagor as of the date hereof, (B) Transferee Guarantor executes and delivers to Mortgagee a New Guaranty and (C) Mortgagor and Guarantor execute the Assumption Agreement to evidence their release of Mortgagee, its officers, directors, employees and agents, from all claims and liability relating to the transactions evidenced by the Loan Documents through and including the date of the consummation of the Property Transfer. Notwithstanding anything in this Paragraph 8 to the contrary, Mortgagee shall not be permitted to require as a condition to the approval of any Property Transfer (or transfer of ownership interests in Mortgagor) or approval of the proposed Transferee or Transferee Guarantor, and neither Mortgagor, Guarantor, Transferee nor Transferee Guarantor shall be obligated to agree in order to obtain approval of any Property Transfer (or transfer of ownership interests in Mortgagor) or approval as the Transferee or Transferee Guarantor to any of the following (i) a change in the outstanding principal balance of the Loan, whether by prepayment or otherwise; (ii) an increase in the interest rate or payments on the Loan; (iii) an increase in the rate of amortization of the Loan; (iv) a shortening of the Maturity Date of the Loan; (v) the altering in any way of the restrictions and limitations on Transfers contained herein; (vi) the imposition of any fees or charges for review and approval of the proposed transfer other than those fees, charges and expenses specifically described in this Mortgage; (vii) any change to the recourse obligations of Mortgagor set forth in Paragraph 49 of this Mortgage; (viii) any new reserves, escrows, or impounds, or an increase in the amounts of existing reserves, escrows, or impounds; (ix) taking any act in violation of any existing agreement to which Mortgagor, Guarantor or any of their Affiliates is a party or any applicable law; or (x) any change of any obligation of Mortgagor or Guarantor under this Mortgage or the other Loan Documents.

(viii) Transferee delivers to Mortgagee evidence reasonably satisfactory to Mortgagee that Transferee is a single purpose entity whose sole business purpose is to own only the Mortgaged Property and which satisfies all of the applicable requirements of this Mortgage (including, without limitation, Paragraph 9), and the governing organizational document of Transferee contains provisions substantially similar to the so-called "special purpose entity provisions" required by Mortgagee to be in the governing organizational document of Mortgagor as of the date hereof.

(ix) Mortgagee is in receipt of all documents evidencing Transferee's existence and good standing and the authority of the Person who executes the

Assumption Agreement and other Loan Documents on behalf of Transferee, which documents shall include, without limitation, certified copies of all documents relating to the organization and formation of the Transferee and Transferee's qualification to do business in the State where the Premises are located that are on file with any governmental jurisdiction.

(x) Mortgagee is in receipt of legal opinions from Transferee's and Transferee Guarantor's counsel that are in form, scope and substance similar in all material respects to the legal opinions delivered to Mortgagee with respect to Mortgagor and Guarantor as of the date hereof, including the enforceability of the Assumption Agreement and New Guaranty, and all such opinions must be reasonably acceptable to Mortgagee and its counsel.

(xi) As of the consummation of the Property Transfer, Mortgagee is in receipt of evidence that all of the applicable terms and provisions of Paragraph 2 of this Mortgage with respect to the Policies are satisfied, and Mortgagee is in receipt of an endorsement to Mortgagee's title insurance policy insuring the lien of this Mortgage in the customary form available in the State where the Premises are located to the effect that leasehold estate in the Premises by virtue of the Ground Lease is vested in Transferee and the Assumption Agreement and the lien of this Mortgage continues to be a first and prior lien with respect to such leasehold estate, notwithstanding the Transfer.

(xii) Concurrently with the consummation of the Property Transfer, Mortgagor pays (or causes to be paid) to Mortgagee in cash a non-refundable transfer fee (a "Transfer Fee") equal to (i) fifty one-hundredths percent (0.50%) of the then outstanding principal balance of the Note in connection with the first, but only the first, Property Transfer effected pursuant to this Paragraph 8(j) and (ii) one percent (1%) of the then outstanding principal balance of the Note in connection with every Property Transfer consummated subsequent to the first Property Transfer effected pursuant to this Paragraph 8(j), and pays to Mortgagee all of Mortgagee's actual, reasonable out-of-pocket costs and expenses incurred by Mortgagee in connection with the Property Transfer, including, without limitation, reasonable attorneys' fees and disbursements, third party report fees, title insurance endorsement premiums and, if applicable, the fees and costs incurred pursuant to clause (vi) of this Subparagraph.

(j) Without limiting the foregoing in this Subparagraph, if a Property Transfer has been consummated following satisfaction of all of the conditions precedent set forth in this Subparagraph, including, without limitation, delivery of the fully executed Assumption Agreement, then, and only then, the parties who have executed this Mortgage as of the date hereof shall be released from all obligations under the Note, this Mortgage and the other Loan Documents, and if Guarantor is replaced by a Transferee Guarantor who has executed and delivered a New Guaranty, Guarantor shall be released

from all obligations under the Guaranty, but in each instance only as to acts or events occurring, or obligations arising, after consummation of such Property Transfer. The foregoing releases shall be evidenced in the Assumption Agreement.

(k) In connection with every Property Transfer and any other Transfer where the consummation of such other Transfer will result in any Person owning directly more than forty-nine percent (49%) of the equity ownership interests of (i) Mortgagor (ii) the Governing Member, (ii) any Person that owns directly more than fifty percent (50%) of Mortgagor or the Governing Member (a "First Tier Majority Owner") or (iv) any Person that owns directly more than fifty percent (50%) of a First Tier Majority Owner (a "Second Tier Majority Owner"), and in any such event such Person does not own more than forty-nine percent (49%) of such interests of such Mortgagor, the Governing Member, the First Tier Majority Owner or the Second Tier Majority Owner, as applicable, immediately prior to such Transfer, Mortgagor or Transferee, as the case may be, shall cause its counsel to deliver a legal opinion to Mortgagee covering Mortgagor, the Governing Member, the First Tier Majority Owner and the Second Tier Majority Owner, as applicable, and addressing the issues that are addressed in the Non-Consolidation Opinion (defined in Paragraph 9 below). Such legal opinion must be reasonably acceptable to Mortgagee and its counsel.

9. Single Purpose Entity/Separateness. Mortgagor represents, warrants to Mortgagee and covenants with Mortgagee as follows:

(a) Mortgagor has never owned, does not own and will not own, and since the date of its formation has not owned 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 and since the date of its formation has not engaged in any business other than the ownership, leasing, maintenance, management and operation of the Mortgaged Property, entering into the Loan, and activities incidental thereto, and Mortgagor will conduct and operate its business as presently conducted and operated.

(c) Mortgagor will not enter into any contract or agreement with Guarantor or any Affiliate of the Mortgagor or Guarantor, except upon terms and conditions substantially similar to those that would be available on an arms-length basis with third parties.

(d) Mortgagor has not incurred (other than indebtedness of Mortgagor to HCP which will be paid in full from proceeds of the Loan) 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) unsecured trade and operational debt incurred in the ordinary course of business with trade creditors and in amounts as are normal and reasonable under the circumstances and such debt is not evidenced by a promissory note

executed by Mortgagor, and (iii) debt incurred in the ordinary course of Mortgagor's business to finance equipment and other personal property used on the Premises, provided that such debt is not evidenced by a promissory note executed by Mortgagor and is not secured by any property other than the item of equipment or personal property so financed.

(e) Mortgagor has not made and will not make any loans or advances to any third party (including Guarantor and any Affiliate of Mortgagor or Guarantor), and shall not acquire obligations or securities of Guarantor or any Affiliate of Mortgagor or Guarantor.

(f) Mortgagor is and, to the extent of available revenues from the Mortgaged Property, will remain solvent and, to the extent of available revenues from the Mortgaged Property, Mortgagor will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due.

(g) Mortgagor has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, good standing and right to do business in the state where it is organized or registered and qualified in the state where the Premises are located, and Mortgagor will not, and will not permit Guarantor (if Guarantor is other than a natural person), to amend, modify or otherwise change the articles of incorporation and bylaws, articles of organization and operating agreement, trust or other organizational documents of Mortgagor, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed.

(h) Mortgagor will maintain all of its books, records, financial statements and bank accounts separate from those of Guarantor and the Affiliates of Mortgagor and Guarantor (other than Other Debtors and except pursuant to a Cash Management Agreement), and Mortgagor will file its own tax returns (except when consolidated tax returns are permitted or required by applicable law Mortgagor will be shown as a separate member of the consolidated group of which Mortgagor is a part for United States federal income tax purposes). Mortgagor shall maintain its books, records, resolutions and agreements as official records.

(i) Mortgagor will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other person (including Guarantor and any Affiliate of Mortgagor and Guarantor), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, shall not identify itself or any of its Affiliates as a division or part of the other and shall maintain and utilize separate invoices and checks.

(j) To the extent of available revenues from the Mortgaged Property, Mortgagor will maintain adequate capital in light of its contemplated business operations; provided that this shall not require Guarantor to make additional capital contributions to Mortgagor.

(k) Neither Mortgagor nor Guarantor will seek the dissolution, winding up, liquidation, consolidation or merger, in whole or in part, of the Mortgagor or Guarantor.

(l) Except pursuant to the Cash Management Agreement (defined below), Mortgagor will not commingle the funds of Mortgagor with those of any other Person, including any Affiliate of Mortgagor.

(m) Mortgagor has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of Guarantor or any Affiliate of Mortgagor or Guarantor, or any other person.

(n) Except for the Other Debtors with respect to the Loan, Mortgagor does not and will not hold itself out to be obligated for the debts of any other Person.

(o) The Person that is in direct Control of Mortgagor (the "Governing Member") shall be a Person whose sole asset is its interest in Mortgagor and/or the Other Debtors and the Governing Member will at all times comply, and will cause Mortgagor to comply, with each of the representations, warranties, and covenants contained in this Paragraph 9 as if such representation, warranty or covenant was made directly by such Governing Member.

(p) The Governing Member is in direct Control of Mortgagor. The Governing Member has caused, and at all times shall cause, there to be at least two duly appointed Independent Managers (defined below) of the Governing Member. "Independent Manager" means a natural person who is appointed or elected by the stockholders or members of Mortgagor as such a party and who is not at the time of appointment or at any time while serving in such capacity and has not been at any time during the preceding five (5) years: (i) a direct or indirect legal or beneficial owner of Mortgagor, the Governing Member or any of their respective Affiliates or a Family Member of any direct or indirect legal or beneficial owner; (ii) a creditor, supplier, employee, officer, director, manager, or contractor of Mortgagor, the Governing Member, or any of their respective Affiliates of Mortgagor, its sole Member or any of their respective Affiliates; or (iii) a person who Controls (whether directly, indirectly, or otherwise) Mortgagor, the Governing Member, or any of their respective Affiliates, or any creditor, supplier, employee, officer, director, manager, or contractor of Mortgagor, its sole, or any of their respective Affiliates.

(q) Neither Mortgagor nor the Governing Member shall cause or permit the managers or members, as the case may be, of Mortgagor to take any action which, under the terms of any certificate of incorporation or organization, any by-laws or operating agreement, or any voting trust agreement with respect to any common stock, or membership or partnership interests, requires the vote of the managers or members of Mortgagor or of the Governing Member unless at the time of such action there shall be at least two managers or who are Independent Managers of Mortgagor.

(r) Mortgagor and the Governing Member shall conduct their respective businesses so that the assumptions made and facts stated with respect to Mortgagor and the Governing Member in that certain opinion letter (and the certificates attached thereto) addressing the "bankruptcy remote" issues commonly found in so-called "non-consolidation legal opinions" dated on or about the date hereof delivered by Latham & Watkins LLP in connection with the Loan (the "Non-Consolidation Opinion") shall be true and correct in all material respects, including, without limitation, the assumptions made by Mortgagor's counsel in the Non-Consolidation Opinion and the statements made by Mortgagor and/or the Governing Member in the certificate, respectively, of the same that is attached to the Non-Consolidation Opinion addressing certain issues related to Mortgagor's and/or the sole Member's business operations prior to the date of this Mortgage. Except as expressly disclosed in writing to Mortgagee prior to the date hereof and as addressed in the Non-Consolidation Opinion, Mortgagor and the Governing Member have, since the date of their respective formations, complied in all material respects with all of the provisions of this Paragraph 9.

10. Maintenance of Mortgaged Property. Mortgagor shall cause the Mortgaged Property to be maintained in a good and safe condition and repair and in keeping with the condition and repair of properties of a similar use, value, age, nature and construction located in areas substantially similar to those where the Improvements are located. Mortgagor shall not use, maintain or operate the Mortgaged Property in any manner which constitutes a public or private nuisance or which makes void, voidable, or cancelable, or materially increases the premium of, any insurance then in force with respect thereto. The Improvements and the Equipment shall not be removed, demolished or materially altered (except for normal replacement of the Equipment with items of the same utility and of equal or greater value) without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed. Mortgagor shall promptly comply in all material respects with all laws, orders and ordinances affecting the Mortgaged Property, or the use thereof. Mortgagor shall promptly repair, replace or rebuild any part of the Improvements or Equipment that is destroyed by any Casualty, or becomes damaged, worn or dilapidated or that is affected by any Taking and shall complete and pay for any structure at any time in the process of construction or repair on the Premises. Mortgagor shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Premises or Improvements or any part thereof. If under applicable zoning provisions the use of all or any portion of the Premises or Improvements is or shall become a nonconforming use, Mortgagor will not cause or permit such nonconforming use to be discontinued or abandoned without the express written consent of Mortgagee. Mortgagor shall not (i) change the use of the Premises or Improvements or (ii) take any steps whatsoever to convert the Premises or Improvements, or any portion thereof, to a condominium or cooperative form of management. Mortgagor will not install or permit to be installed on the Premises any underground storage tank. Mortgagor shall not commit or suffer any physical waste of the Mortgaged Property or make any change in the use of the Mortgaged Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Mortgaged Property, or take any action that might invalidate or give cause

for cancellation of any of the Policies, or do or permit to be done thereon anything that may in any way impair the value of the Mortgaged Property in any material respect or the lien of this Mortgage. Mortgagor will not, without the prior written consent of Mortgagee, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Premises, regardless of the depth thereof or the method of mining or extraction thereof.

11. Prepayment.

(a) At any time after the date which is the earlier of (such date sometimes being referred to as the "First Prepayment Date") (x) two (2) years after the date of disposition of the Loan by Mortgagee in a Secondary Market Transaction (as defined in Paragraph 8(e)(xxiv) above or (y) three (3) years following the date hereof, Borrowers (as defined in the second paragraph of this Mortgage) or any of them shall have the privilege to prepay the entire outstanding principal balance of the Note (the "Prepayment") and obtain the release of all of the Properties (as defined in Paragraph 1(j)) from the lien of this Mortgage, all of the Other Security Instruments (to the extent not already released or reconveyed in accordance with the terms thereof) (collectively, the "Security Instruments") and all other Loan Documents described in the Security Instruments upon the satisfaction of all of the following conditions precedent:

(i) Mortgagee is given not less than thirty (30) days prior written notice specifying a regularly scheduled payment date on the Note (the "Prepayment Date") on which the Prepayment shall be paid;

(ii) Mortgagee receives payment of the entire outstanding principal balance of the Note;

(iii) Mortgagee receives payment of all interest accrued and unpaid on the principal balance of the Note to and including the Prepayment Date;

(iv) Mortgagee receives payment of all other sums, not including scheduled interest or principal payments, due under the Note, this Mortgage, the Assignment, and all other Loan Documents described in the Security Instruments;

(v) Mortgagee receives payment of the Yield Maintenance Premium (hereinafter defined); and

(vi) Mortgagee receives instruments to release all of the Properties from the liens of all of the Security Instruments and all other Loan Documents described in the Security Instruments (for execution by Mortgagee) in forms appropriate for the jurisdictions in which the Properties are located.

(b) For purposes of this Paragraph 11, the following terms have the following meanings:

(i) The term "Yield Maintenance Premium" means the greater of (A) one percent (1%) of the entire outstanding principal amount of the Note or (B) the present value as of the Prepayment Date of the remaining scheduled payments of principal and interest from the Prepayment Date through the Maturity Date (inclusive of the entire unpaid principal balance that would, but for its prepayment, otherwise be due on the Maturity Date) determined by discounting such payments at the Discount Rate (hereinafter defined), less the amount of principal being prepaid.

(ii) The term "Discount Rate" means the yield on the non-callable U.S. Treasury issue with a maturity date closest to the Maturity Date, with such yield being based on the bid price for such issue as published in The Wall Street Journal on the Prepayment Date and converted to a monthly compounded nominal yield. In the event The Wall Street Journal is no longer published or The Wall Street Journal no longer reports information permitting the calculation of such yield, Mortgagee shall utilize another nationally recognized source (i.e. Telerate Reports, Bloomberg Reports) to determine such yield.

11A. Partial Prepayment.

(a) At any time after the First Prepayment Date, Mortgagor shall have the privilege to prepay the Allocated Loan Amount (defined below) and obtain the release of the Mortgaged Property from the lien of this Mortgage, the Assignment, and the Cross Agreement and from its obligations under the Note (a "Partial Prepayment") upon the satisfaction of all of the following conditions precedent:

(i) Mortgagee is given not less than thirty (30) days prior written notice specifying a regularly scheduled payment date on the Note (the "Partial Prepayment Date") on which the Allocated Loan Amount shall be paid;

(ii) As of the Partial Prepayment Date the DSCR Minimum (defined below) is satisfied.

(iii) Mortgagee receives payment of the Allocated Loan Amount;

(iv) Mortgagee receives payment of all interest accrued and unpaid on the principal balance of the Note to and including the Partial Prepayment Date;

(v) Mortgagee receives payment of all other sums, not including scheduled interest or principal payments, due under the Note, this Mortgage and all of the Other Security Instruments, and the other Loan Documents;

(vi) Mortgagee receives payment of the Partial Yield Maintenance Premium (hereinafter defined).

(vii) Mortgagee receives an instrument to release the Mortgaged Property from the lien of this Mortgage, the Assignment and the Cross Agreement (for execution by Mortgagee) in a form appropriate for the jurisdiction in which the Premises is located;

(viii) If applicable, Mortgagee either receives (A) payment of the Additional Prepayment (defined below) or (B) receives a security agreement, in form and substance reasonably satisfactory to Mortgagee, creating a first priority lien on the NCFADS Securities (hereinafter defined) purchased by Mortgagor and/or the other Borrowers, as applicable (the "NCFADS Security Agreement");

(ix) If Mortgagee reasonably determines it necessary and prudent to do so, Mortgagee shall have received a legal opinion in form and substance reasonably acceptable to Mortgagee that the proposed Partial Prepayment will not cause any trust created in connection with a Secondary Market Transaction to fail to qualify as a REMIC; and

(x) Mortgagee is paid or reimbursed by Mortgagor for all of Mortgagee's actual, reasonable out-of-pocket expenses incurred by Mortgagee in connection with the review, approval and documentation of a Partial Prepayment, including, without limitation, reasonable attorneys' fees and disbursements, and, if applicable, the fees and costs incurred for the opinion referred to in clause (ix) immediately preceding.

(b) For purposes of this Paragraph 11A, the following terms have the following meanings:

(i) "Partial Yield Maintenance Premium" means the greater of (A) one percent (1%) of the Allocated Loan Amount (plus the Additional Prepayment if applicable) or (B) the present value as of the Partial Prepayment Date of the remaining scheduled payments of principal and interest corresponding to the Allocated Loan Amount (plus the Additional Prepayment if applicable) from the Partial Prepayment Date through the Maturity Date (inclusive of the portion of the principal balance of the Note corresponding to the Allocated Loan Amount (plus the Additional Prepayment if applicable) that would, but for its prepayment, otherwise be due on the Maturity Date) determined by discounting such payments at the Discount Rate (hereinafter defined), less the amount of principal being prepaid.

(ii) "Discount Rate" means the yield on the non-callable U.S. Treasury issue with a maturity date closest to the Maturity Date, with such yield being based on the bid price for such issue as published in The Wall Street Journal on the Partial Prepayment Date and converted to a monthly compounded nominal yield. In the event The Wall Street Journal is no longer published or The Wall Street Journal no longer reports information permitting the calculation of such

yield, Mortgagee shall utilize another nationally recognized source (i.e. Telerate Reports, Bloomberg Reports) to determine such yield.

(iii) "Additional Prepayment" means the amount which if added to NCFADS would immediately following a Partial Prepayment cause Mortgagor and/or the other Borrowers to satisfy the DSCR Minimum, which amount shall be applied as an additional partial prepayment on the principal balance of the Note.

(iv) "Allocated Loan Amount" means an amount equal to (A) \$9,300,000.00 less (B) the entire amounts, if any, of any Involuntary Prepayments or any other prepayments received by Mortgagee in connection with the Premises or Improvements and which Mortgagee has applied to the principal balance of the Note in accordance with the terms of this Mortgage. In calculating the Allocated Loan Amount hereunder, Mortgagee shall not include any Involuntary Prepayments or any other prepayments received from any of the Other Debtors (as defined in the second paragraph of this Mortgage) or received by Mortgagee with respect to any of the Other Properties (as defined in Paragraph 57 below).

(v) "DSCR" means the actual debt service coverage ratio for the Loan, which is the ratio of NCFADS, calculated on an annualized and adjusted basis for the trailing twelve (12) calendar month period prior to the Partial Prepayment Date, to the annual amount of interest payable on the Note based on the Contract Rate (as defined in the Note).

(vi) "DSCR Minimum" means that as of the Partial Prepayment Date **after** giving effect to the payment of the Allocated Loan Amount provided for in this Paragraph and release of the lien of this Mortgage the DSCR for the Loan must be not less than the greater of (A) 1.69:1 (which is the DSCR calculated for the Loan by Mortgagee as of the date hereof) or (B) the DSCR calculated for the Loan as of the Partial Prepayment Date **prior** to giving effect to the payment of the Allocated Loan Amount provided for in this Paragraph and release of the lien of this Mortgage, but in no event greater than 2.0:1.

(vii) "NCFADS" means an amount calculated (on an annualized and adjusted basis as provided for below) as "Income" less "Vacancy Adjustment" less "Expenses" and less "Reserves". (All calculations of Income, Vacancy Adjustment, Expenses and Reserves will be with respect to all of the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage and before giving effect to the release of the lien of this Mortgage.)

(viii) "NCFADS Securities" means U.S. Obligations (defined in Paragraph 11B below) that pay monthly to Mortgagor and/or the other Borrowers cash income (not constituting interest) sufficient (on an annualized basis) to increase NCFADS to the amount necessary for Mortgagor and/or the other

Borrowers to satisfy the DSCR Minimum, and which provide such payments on or prior to, but as close as possible to, all successive scheduled dates after the Partial Prepayment Date upon which interest and/or principal payments are required under the Note to and including the Maturity Date.

(ix) "Income" means, for the trailing one (1) calendar month period prior to the Prepayment Date, all actual cash collections of rent and other actual income of Borrowers from the Properties (including (x) rent and other actual income ["Hospital Lease Income"] from a Lease covering all or a portion of the Improvements under which the tenant is the medical hospital adjacent to the Premises or an Affiliate thereof ("Hospital Tenant") and the leased space is used by the hospital or its affiliate in the ordinary course of business of the hospital [a "Hospital Lease"], and (y) rent and other actual income ["Hospital Master Lease Income"] from a Lease covering all or a portion of the Improvements under which the tenant is a Hospital Tenant and the leased space is held for sublease to tenants who are not Affiliates of the hospital [a "Hospital Master Lease"]) subject to the liens of the Security Instruments immediately before the release of this Mortgage during such period (including income which will be earned from the NCFADS Securities, if applicable purchased by Mortgagor or any of the other Borrowers pursuant to this Mortgage or which have previously been purchased by any of the Borrowers pursuant to the terms of the Other Security Instruments pursuant to Paragraph 11B thereof) but excluding (A) any rent received for space in any of the Improvements at any of the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage that is (1) not subject to a Lease (but including a month-to-month holdover tenant under an expired Lease provided such tenant and Mortgagor are negotiating in good faith the terms of a new or renewal lease agreement) or (2) leased to a tenant that is in monetary default under its Lease or is a debtor in a bankruptcy or similar insolvency proceeding, or is otherwise excluded by Mortgagee in its reasonable discretion for credit or other reasons, (B) proceeds of insurance or an Award (but Income will include rental loss insurance proceeds to the extent allocable to such period) in connection with any of the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage, (C) any interest income from any source, (D) any repayments received from any third party of principal loaned or advanced to such third party by any Borrower, (E) any proceeds resulting from the Transfer of all or any portion of any of the Properties, (F) sales, use and occupancy or other taxes on receipts required to be accounted for by Borrowers to any governmental authority, (G) Cancellation Payments under this Mortgage or any of the Other Security Instruments, and (H) any other extraordinary or non-recurring items incurred by any Borrower. In addition, except for Hospital Lease Income, Mortgagee may also exclude from Income all or any portion of rent received for space leased to a tenant that is not in occupancy (either itself or through a subtenant) and/or is not open to the public for business at the Properties; provided that Hospital Master Lease Income received for space

under a Hospital Master Lease the Hospital Tenant of which is rated "BBB" (or its equivalent) or better by Standard & Poor's Ratings or by Moody's Investors Service, Inc. (a "Qualified Hospital") shall not be excluded from Income; and, provided further that Hospital Master Lease Income received for space under a Hospital Master Lease which is not leased and occupied by a subtenant or such Hospital Tenant or which Hospital Tenant is not a Qualified Hospital may be excluded based upon Mortgagee's reasonable evaluation of the credit of such Hospital Tenant and such other reasonable underwriting considerations as are customarily considered by institutional lenders. Such rental income will be adjusted ('grossed-up') to reflect an assumed full occupancy of all of the Improvements at all of the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage at the time the DSCR Minimum is determined for the purposes of this Paragraph and to exclude or reduce certain income based on Mortgagee's reasonable understanding of prevailing rental levels for Comparable Properties at each of the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage, bankruptcies or other credit risks affecting individual tenants at the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage, and other factors which Mortgagee determines are reasonably appropriate ("Assumed Rental"). Assumed Rental shall be calculated by multiplying the prevailing market rental rate per square foot (as determined by Mortgagee in its reasonable discretion) by the rentable square footage of all of the Improvements at all of the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage that, at the time the DSCR Minimum is determined for the purposes of this Paragraph, is not subject to a Lease (other than a month-to-month holdover tenant under an expired Lease provided such tenant and Mortgagor are negotiating in good faith the terms of a new or renewal lease agreement) or, if subject to a Lease, is deemed to be "unoccupied" because (x) it is leased to a tenant that is not in occupancy (either itself or through a subtenant) and/or is not open to the public for business, (y) is leased to a tenant that is in default under its Lease or is a debtor in bankruptcy or similar insolvency proceeding, or (z) is otherwise excluded by Mortgagee in its reasonable discretion for credit or other material reasons; provided this exclusion shall not include any space covered by a Hospital Lease, space covered by a Hospital Master Lease under which the Hospital Tenant is a Qualified Hospital, or space covered by a Hospital Master Lease which is not leased and occupied by a subtenant or such Hospital Tenant and which Hospital Tenant is not a Qualified Hospital but Mortgagee has determined (as provided for above) to include the Hospital Master Lease Income in its determination of Income. The amount of Assumed Rental attributable to the actual trailing one (1) calendar month period prior to the Prepayment Date will be included in Income.

(x) "Vacancy Adjustment" means the greater of (A) the "Actual Vacancy" (defined below), stated as a percentage of Income, (B) the prevailing

market vacancy for Comparable Properties, determined by Mortgagee in its reasonable discretion, stated as a percentage of Income, or (c) a minimum vacancy of five percent (5%). "Actual Vacancy" will be the percentage of rentable square footage at the Improvements that is either (1) not subject to a Lease (other than a month-to-month holdover tenant under an expired Lease provided such tenant and Mortgagor are negotiating in good faith the terms of a new or renewal lease agreement), (2) leased to a tenant that is not in occupancy and/or not open to the public for business (but not including any space covered by a Hospital Lease, space covered by a Hospital Master Lease under which the Hospital Tenant is a Qualified Hospital, or space covered by a Hospital Master Lease which is not leased and occupied by a subtenant or such Hospital Tenant and which Hospital Tenant is not a Qualified Hospital but Mortgagee has determined (as provided for above) to include the Hospital Master Lease Income in its determination of Income), (3) leased to a tenant that is in default under its Lease or is a debtor in bankruptcy or similar insolvency proceeding, or (4) is otherwise excluded by Mortgagee in its reasonable discretion for credit or other material reasons.

(xi) "Expenses" means an amount equal to the aggregate actual operating expenses for the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage for the then trailing twelve (12) calendar month period, annualized and adjusted pursuant to Mortgagee's system of calculation and standards then in effect. Actual operating expenses will include, without limitation, (1) an assumed property management fee equal to the greater of three and fifty one-hundredths percent (3.50%) or the actual management fee in place at the time the DSCR Minimum is determined for the purposes of this Paragraph, (2) real estate taxes and special assessments levied against the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage for the entire trailing twelve (12) calendar month period prior to the Partial Prepayment Date at full assessment rates, (3) annual Insurance Premiums, common area charges and expenses for maintenance and repairs, and utility charges, and all other operating, renting, administrative, management, legal, and other ordinary expenses of Borrowers for the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage during such period, determined in accordance with sound accounting principles consistently applied; provided, however, that such expenses shall not include (u) depreciation, amortization, or other noncash items (other than expenses that are due and payable but not yet paid), (v) interest, principal, or any other sums due and owing with respect to the Loan, (w) income taxes or other taxes in the nature of income taxes, (x) Capital Expenditures (as defined in Paragraph 58(a)(vii) of this Mortgage), (y) equity distributions, or (z) charges incurred by any Borrower to any Affiliate of a Borrower representing an allocated portion of salaries paid to central administrative staff employed by the Affiliate who performs services for the Borrower.

(xii) "Reserves" means reserves for tenant improvements and leasing commissions of not less than \$0.60 per square foot of the Improvements on the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage, and reserves for on-going replacements of not less than \$0.10 per square foot of the Improvements on the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage.

(xiii) "Comparable Properties" means properties similar in material respect to each of the Properties subject to the liens of the Security Instruments immediately before the release of this Mortgage (such as size, age, physical condition and use to which they are put) in the leasing market where the respective Properties are located.

(c) If as a Partial Prepayment Date NCFADS is not sufficient to satisfy the DSCR Minimum, Mortgagor and/or the other Borrowers may, solely at their election (without any obligation to do so) and at their sole cost and expense, either (i) pay Mortgagee the Additional Prepayment or (ii) purchase the necessary amount of NCFADS Securities and execute and deliver to Mortgagee the NCFADS Security Agreement, pursuant to which Mortgagor and/or the other Borrowers shall pledge and grant a security interest to Mortgagee in the NCFADS Securities as additional security for payment of the Debt.

11B. Defeasance.

(a) At any time after the First Prepayment Date and provided no Event of Default exists, all of the Borrowers may obtain the release of all (and not less than all) of the Properties (defined in Paragraph 1(j)) from the lien of all of the Security Instruments (to the extent not already released or reconveyed in accordance with the terms thereof) (a "Defeasance") upon satisfaction of the following conditions precedent:

(i) not less than thirty (30) days prior written notice is given to Mortgagee specifying a regularly scheduled payment date on the Note (the "Release Date") on which the Defeasance Deposit (hereinafter defined) is to be made;

(ii) Mortgagee receives payment of all interest accrued and unpaid on the principal balance of the Note to and including the Release Date;

(iii) Mortgagee receives payment of all other sums, not including scheduled interest or principal payments, due under the Note, this Mortgage, the Assignment, and all other Loan Documents herein described and described in all of the Other Security Instruments;

(iv) Mortgagee receives payment of the Defeasance Deposit; and

(v) Mortgagee receives:

(A) a security agreement, in form and substance reasonably satisfactory to Mortgagee, creating a first priority lien on the Defeasance Deposit and the U.S. Obligations (hereinafter defined) purchased on behalf of Borrowers with the Defeasance Deposit in accordance with this provision of this Paragraph 11B and the corresponding Paragraph 11B in each other applicable Security Instrument (the "Security Agreement");

(B) instruments to release all of the Properties from the liens of all of the Security Instruments and all other Loan Documents described in the Security Instruments (for execution by Mortgagee) in forms appropriate for the jurisdictions in which the Properties are located;

(C) an officer's certificate of Mortgagor certifying that the requirements set forth in this Subparagraph (a) and the corresponding Subparagraph (a) in each other applicable Security Instrument have been satisfied;

(D) an opinion of counsel for Mortgagor in form and substance and delivered by counsel reasonably satisfactory to Mortgagee stating, among other things (x) that Mortgagee has a perfected first priority security interest in the Defeasance Deposit and the U.S. Obligations purchased by Mortgagee on behalf of Mortgagor, (y) that the Security Agreement is enforceable against Mortgagor in accordance with its terms and (z) that the Defeasance will not cause any trust to fail to qualify as a REMIC;

(E) evidence in writing from the applicable Rating Agencies to the effect that such release will not result in a re-qualification, reduction or withdrawal of any rating in effect immediately prior to the Defeasance for any securities issued in connection with a Secondary Market Transaction; and

(F) such other certificates, opinions, documents or instruments as Mortgagee may reasonably request.

In connection with the conditions set forth in Subparagraph (a)(v) above, Mortgagor for itself hereby appoints Mortgagee as its agent and attorney-in-fact for the purpose of using the Defeasance Deposit to purchase U.S. Obligations identified for Mortgagee by the Borrowers or Borrowers' agent (other than Mortgagee) and which provide payments on or prior to, but as close as possible to, all successive scheduled payment dates after the Release Date upon which interest and principal payments are required under the Note (including the amounts due on the Maturity Date) and in amounts equal to the scheduled payments due on such dates under the Note (the "Scheduled

Defeasance Payments"). Borrowers, pursuant to the Security Agreement or other appropriate document, shall authorize and direct that the payments received from the U.S. Obligations may be made directly to Mortgagee and applied to satisfy the obligations of Borrowers under the Note.

(b) Upon compliance with the requirements of this Paragraph 11B and the corresponding Paragraph 11B in each other applicable Security Instrument, the Properties shall be released from the liens of all of the Security Instruments and all other Loan Documents described in the Security Instruments, and the pledged U.S. Obligations shall be the sole source of collateral securing the Note. Any portion of the Defeasance Deposit in excess of the amount necessary to purchase the U.S. Obligations required by Subparagraph (a) above to satisfy Borrowers' obligations under this Paragraph 11B and the corresponding Paragraph 11B in each other applicable Security Instrument (and any other deposits, impounds, or reserves of Borrowers held by or on account of Mortgagee under the Security Instruments) shall be remitted to Borrowers with the release of the Properties from the liens of the Security Instruments. In connection with such release, Mortgagee may establish or designate a successor entity or, if not so designated by Mortgagee, designated by Borrowers and acceptable to Mortgagee in its sole discretion (the "Successor Mortgagor") and Borrowers shall transfer and assign all obligations, rights and duties under and to the Note together with the pledged U.S. Obligations to such Successor Mortgagor. The right of Mortgagee to establish or designate a Successor Mortgagor shall be retained by Mortgagee notwithstanding the sale or transfer of the Security Instruments unless such obligation is specifically assumed by the transferee. Such Successor Mortgagor shall assume the obligations under the Note, the Security Agreement and all other Loan Documents herein described and described in all of the Other Security Instruments, and Borrowers and Guarantor shall be relieved of their respective obligations thereunder (but in each instance only as to acts or events occurring, or obligations arising, after consummation of the Defeasance provided for in this Paragraph 11B and the corresponding Paragraph 11B in each other applicable Security Instrument). Borrowers shall pay \$1,000.00 to any such Successor Mortgagor as consideration for assuming the obligations under the Note and the Security Agreement. Notwithstanding anything in this Mortgage or in any Other Security Instrument to the contrary, no other assumption fee shall be payable upon a transfer of the Note in accordance with this Paragraph 11B and the corresponding Paragraph 11B in each other applicable Security Instrument, but Borrowers shall pay all reasonable, actual costs and expenses incurred by Mortgagee, including Mortgagee's reasonable attorneys' fees and expenses, in connection with this Paragraph 11B and the corresponding Paragraph 11B in each other applicable Security Instrument.

(c) For purposes of this Paragraph, the following terms shall have the following meanings:

(i) The term "Defeasance Deposit" shall mean an amount equal to the sum of one-hundred percent (100%) of the entire unpaid principal balance of the

Note, the Defeasance Yield Maintenance Amount, any costs and expenses incurred or to be incurred in the purchase of U.S. Obligations necessary to meet the Scheduled Defeasance Payments 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;

(ii) The term "Defeasance Yield Maintenance Amount" shall mean the amount (if any) which, when added to the remaining principal amount of the Note, will be sufficient to purchase U.S. Obligations providing the required Scheduled Defeasance Payments; and

(iii) The term "U.S. Obligations" shall mean direct, non-callable obligations of the United States of America.

11C. Partial Defeasance.

(a) At any time after the First Prepayment Date and provided no Event of Default exists, Mortgagor may obtain a release of the lien of this Mortgage and the other Loan Documents (a "Partial Defeasance") upon the satisfaction of the following conditions precedent:

(i) not less than thirty (30) days prior written notice is given to Mortgagee specifying a regularly scheduled payment date on the Note (the "Partial Defeasance Date") on which the Partial Defeasance Deposit (hereinafter defined) is to be made;

(ii) Mortgagee receives payment of interest accrued and unpaid on the Note to and including the Partial Defeasance Date;

(iii) Mortgagee receives payment of all other sums, not including scheduled interest or principal payments, due under the Note, this Mortgage, the Assignment, and all other Loan Documents herein described and described in all of the Other Security Instruments;

(iv) Mortgagee receives payment of Mortgagee of the Partial Defeasance Deposit; and

(v) Mortgagee receives:

(A) a security agreement, in form and substance satisfactory to Mortgagee, creating a first priority lien on the Partial Defeasance Deposit and the U.S. Obligations (as defined in Paragraph 11B above) purchased on behalf of Mortgagor with the Partial Defeasance Deposit in accordance with this provisions of this Paragraph (the "Partial Security Agreement");

(B) an instrument to release the Mortgaged Property from the lien of this Mortgage and the other Loan Documents (for execution by Mortgagee) in a form appropriate for the jurisdiction in which the Mortgaged Property is located;

(C) an opinion of counsel for Mortgagor in form and substance and delivered by counsel reasonable satisfactory to Mortgagee stating, among other things (w) the Remaining Collateral Note (defined below) has been duly executed and delivered by all of the Borrowers (other than Mortgagor and any other Borrower who has previously been released pursuant to the provisions of the Other Security Instruments from the obligations under the Note and all of the Loan Documents herein described and described in all of the Other Security Instruments) and is valid and enforceable against the Borrowers other than Mortgagor in accordance with its terms; (x) that Mortgagee has a perfected first priority security interest in the Partial Defeasance Deposit and the U.S. Obligations purchased by Mortgagee on behalf of Mortgagor, (y) that the Partial Security Agreement is enforceable against Mortgagor in accordance with its terms, and (z) that the Partial Defeasance will not cause any trust to fail to qualify as a REMIC;

(F) evidence in writing from the applicable Rating Agencies to the effect that the Partial Defeasance will not result in a re qualification, reduction or withdrawal of any rating in effect immediately prior to such defeasance for any securities issued in connection with a Secondary Market Transaction;

(G) two amended and restated promissory notes in replacement and substitution, but not in payment or satisfaction, of the Note, one such note (herein the "Remaining Collateral Note") shall be in the stated principal sum of the outstanding principal balance of the Note immediately before giving effect to the Partial Defeasance less the amount of the Partial Defeasance Deposit executed by the Borrowers (other than Mortgagor and any Borrower who has previously been released pursuant to the provisions of the Other Security Instruments from the obligations under the Note and all of the Loan Documents herein described and described in all of the Other Security Instruments), and the other such note (herein the "Defeased Note") shall be in the stated principal sum equal to the Partial Defeasance Deposit executed by Mortgagor; interest on each of the Remaining Collateral Note and Defeased Note shall accrue at the Contract Rate; the Monthly Payment due on each respective note shall be re-calculated as provided for in the last two sentences of Section 7 of the Note; the Maturity Date on each note shall remain June 6, 2016; and except as otherwise provided for in this Paragraph 11C the Remaining

Collateral Note and the Defeased Note shall be identical in all respects to the Note;

(H) an officer's certificate of Mortgagor certifying that the requirements set forth in this Subparagraph (a) have been satisfied; and

(I) such other certificates, opinions, documents or instruments as Mortgagee may reasonably request.

In connection with the conditions set forth in Subparagraph (a)(iv) above, Mortgagor hereby appoints Mortgagee as its agent and attorney in fact for the purpose of using the Partial Defeasance Deposit to purchase U.S. Obligations identified for Mortgagee by Mortgagor or Mortgagor's agent (other than Mortgagee) and which provide payments on or prior to, but as close as possible to, all successive scheduled payment dates after the Partial Defeasance Date upon which interest and principal payments are required under the Defeased Note (including the amounts due on the Maturity Date) and in amounts equal to the scheduled payments due on such dates under the Defeased Note (the "Scheduled Partial Defeasance Payments"). Mortgagor, pursuant to the Partial Security Agreement or other appropriate document, shall authorize and direct that the payments received from the U.S. Obligations may be made directly to Mortgagee and applied to satisfy the obligations of the Mortgagor under the Defeased Note.

(b) Upon compliance with the requirements of this Paragraph 11C, the Mortgaged Property shall be released from the lien of this Mortgage and the other Loan Documents, and the pledged U.S. Obligations shall be the sole source of collateral securing the Defeased Note. Any portion of the Defeasance Deposit in excess of the amount necessary to purchase the U.S. Obligations required by Subparagraph (a) above to satisfy Mortgagor's obligations under this Paragraph (and any other deposits, impounds, or reserves of Mortgagor held by or on account of Mortgagee under this Mortgage) shall be remitted to Mortgagor with the release of the Mortgaged Property from the lien of this Mortgage and the other Loan Documents. In connection with such release, Mortgagee may establish or designate a successor entity or, if not so designated by Mortgagee, designated by Mortgagor and acceptable to Mortgagee in its sole discretion (the "Partial Successor Mortgagor") and Mortgagor shall transfer and assign all obligations, rights and duties under and to the Defeased Note together with the pledged U.S. Obligations to such Partial Successor Mortgagor. The right of Mortgagee to establish or designate a Partial Successor Mortgagor shall be retained by Mortgagee notwithstanding the sale or transfer of the Security Instruments unless such obligation is specifically assumed by the transferee. Such Partial Successor Mortgagor shall assume the obligations under the Defeased Note and the Partial Security Agreement and Mortgagor shall be relieved of its obligations thereunder and under all of the other Loan Documents. The Mortgagor shall pay \$1,000.00 to any such Successor Mortgagor as consideration for assuming the obligations under the Defeased Note and the Partial

Security Agreement. Notwithstanding anything in this Mortgage to the contrary, no other assumption fee shall be payable upon a transfer of the Defeased Note in accordance with this Paragraph, but Mortgagor shall pay on the Partial Defeasance Date all reasonable, actual costs and expenses incurred in the purchase of U.S. Obligations necessary to meet the Partial Scheduled Defeasance Payments and any revenue, documentary stamp or intangible taxes or any other tax or charge due in connection with the transfer of the Defeased Note, the partial release of this Mortgage or otherwise required to accomplish the agreements of this Paragraph, including Mortgagee's reasonable attorneys' fees and expenses incurred in connection with this Paragraph 11C.

(c) For purposes of this Paragraph, the term:

(i) "Partial Defeasance Deposit" means the Allocated Loan Balance, the Partial Defeasance Yield Maintenance Amount, any costs and expenses incurred or to be incurred in the purchase of U.S. Obligations necessary to meet the Scheduled Partial Defeasance Payments and any revenue, documentary stamp or intangible taxes or any other tax or charge required to accomplish the agreements of this Paragraph.

(ii) "Partial Defeasance Yield Maintenance Amount" means the amount (if any) which, when added to the Allocated Loan Balance, will be sufficient to purchase U.S. Obligations providing the required Partial Scheduled Defeasance Payments.

12. Estoppel Certificates and No Default Affidavits.

(a) Within ten (10) business days after written request by Mortgagee, Mortgagor shall furnish Mortgagee or any proposed assignee 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 terms of payment and Maturity Date of the Note, (v) the date installments of interest and/or principal were last paid, (vi) that to Mortgagor's knowledge, except as provided in such statement, there are no existing Events of Default under any of the Loan Documents and there are no existing events that would constitute Events of Defaults under any of the Loan Documents with the passage of time or the giving of notice or both, and (vii) whether, to Mortgagor's knowledge, Mortgagor has any offsets or defenses against the Debt or Obligations and, if any are alleged to exist, a detailed description thereof.

(b) Upon Mortgagee's written request, subject to the provisions of the Leases, Mortgagor shall use all commercially reasonable efforts to obtain from each tenant an estoppel certificate attesting to the matters contained in the form of Mortgagee's tenant estoppel certificate delivered to Mortgagor prior to the date hereof or attesting to the matters required under the subject Lease if such Lease contains provisions setting forth the scope of a tenant estoppel certificate. Mortgagor shall promptly deliver to Mortgagee all executed estoppel certificates obtained by Mortgagor. Mortgagor shall not be required

to deliver such certificates more frequently than one (1) time in any calendar year, other than the calendar year during which a Secondary Market Transaction occurs.

13. Changes in Laws Regarding Taxation. If at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Mortgage, or upon any rights, titles, liens, or security interests created hereby, or upon the Debt or any part thereof (whether pursuant to the Internal Revenue Code or otherwise), Mortgagor will pay such tax, with interest and penalties thereon, if any; provided that if Mortgagee is advised by its counsel that the payment of such tax or interest and penalties by Mortgagor would be unlawful, taxable to Mortgagee, unenforceable, or provide the basis for a defense of usury, then in any such event, Mortgagee shall have the option, by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable, in which event the payment of the Debt shall be without any prepayment or yield maintenance premium or penalty.

14. No Credits on Account of the Debt. Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Mortgaged Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Mortgaged Property, or any part thereof, for real estate tax purposes by reason of this Mortgage or the Debt. In the event such claim, credit or deduction shall be required by law, Mortgagee shall have the option, by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable, in which event the payment of the Debt shall be without any prepayment or yield maintenance premium or penalty.

15. Documentary Stamps. If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note or this Mortgage, or impose any other tax or charge on the same, Mortgagor will pay for the same, with interest and penalties thereon, if any.

16. Controlling Agreement. It is expressly stipulated and agreed to be the intent of Mortgagor, and Mortgagee at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Mortgagee to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this Paragraph 16 shall control every other covenant and agreement in this Mortgage and the other Loan Documents. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under the Note or under any of the other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Debt, or if Mortgagee's exercise of the option to accelerate the maturity of the Note, or if any prepayment by Mortgagor results in Mortgagor having paid any interest in excess of that permitted by applicable law, then it is Mortgagor's and Mortgagee's express intent that all excess amounts theretofore collected by Mortgagee shall be credited on the principal balance of the Note and all other Debt, and the provisions of the Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the

fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Mortgagee for the use, forbearance, or detention of the Debt shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Debt until payment in full so that the rate or amount of interest on account of the Debt does not exceed the maximum lawful rate from time to time in effect and applicable to the Debt for so long as the Debt is outstanding. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Mortgagee to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

17. Financial Statements.

(a) Mortgagor represents and warrants to Mortgagee that the financial statements heretofore furnished by Mortgagor to Mortgagee are, as of the dates specified therein, complete and correct in all material respects and fairly present the financial condition of Mortgagor and any other persons that are the subject of such financial statements, and are prepared in accordance with sound accounting principles consistently applied. Mortgagor does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Mortgagor and reasonably likely to have a Materially Adverse Effect, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operation or business of Mortgagor from that set forth in said financial statements.

(b) Mortgagor will maintain full and accurate books and records of accounts in accordance with sound accounting principles consistently applied in which full, true and correct entries shall be promptly made with respect to Mortgagor, the Mortgaged Property and the operation thereof, and will permit all such books and records (including without limitation all contracts, statements, invoices, bills and claims for labor, materials and services supplied for the construction, repair or operation of the Improvements) to be inspected or audited and copies made by Mortgagee and its representatives during normal business hours and at any other reasonable times. Mortgagor will furnish, or cause to be furnished, to Mortgagee on or before forty-five (45) calendar days after the end of each calendar quarter the following items, each certified by Mortgagor as being true and correct to its knowledge, in such format and in such detail as Mortgagee may reasonably request: (i) a written statement (rent roll) dated as of the last day of each such calendar quarter identifying each of the Leases by the term, space occupied, rental required to be paid, security deposit paid, any rental concessions, commencement date, expiration date, options to renew or expand, expense recovery provisions, and identifying any defaults or payment delinquencies thereunder; (ii) monthly and year-to-date operating statements prepared for each calendar month during each such calendar quarter reporting period detailing the total revenues received, total expenses incurred, total cost of all capital improvements and total cash flow. From the date hereof through the earlier of the date

twelve (12) months after the date hereof or the date of disposition of the Loan by Mortgagee in a Secondary Market Transaction, the Mortgagor shall furnish on a monthly basis each of the items listed in the immediately preceding sentence (collectively, the "Pre-Securitization Financials") within twenty (20) days after the end of each calendar month. Within ninety (90) days following the end of each calendar year, Mortgagor shall furnish statements of its financial affairs and condition including a balance sheet and a statement of profit and loss for Mortgagor in such detail and format as Mortgagee may request, and setting forth the financial condition and the income and expenses for the Mortgaged Property for the immediately preceding calendar year. Mortgagor's annual financial statements shall include (i) a list of the tenants, if any, occupying more than twenty (20%) percent of the total floor area of the Improvements, and (ii) a breakdown showing the year in which each Lease then in effect expires and the percentage of total floor area of the Improvements and the percentage of base rent with respect to which Leases shall expire in each such year, each such percentage to be expressed on both a per year and a cumulative basis. Mortgagor's annual financial statements shall be accompanied by a certificate executed by its chief financial officer or by any other authorized representative of Mortgagor stating that each such annual financial statement presents fairly the financial condition of the Mortgaged Property being reported upon and has been prepared in accordance with sound accounting principles consistently applied or, at Mortgagee's request, Mortgagor's annual financial statements shall be audited (or prepared and certified) by an independent public accounting firm. At any time and from time to time Mortgagor shall deliver to Mortgagee or its agents such other financial data as Mortgagee or its agents shall reasonably request with respect to the ownership, maintenance, use and operation of the Mortgaged Property.

(c) In the event that Mortgagor fails to provide to Mortgagee or its designee any of the financial statements, certificates, reports or information (the "Required Records") required by this Paragraph 17 within thirty (30) days after the date upon which such Required Record is due, Mortgagor shall pay to Mortgagee, at Mortgagee's option and in its sole discretion, an amount equal to \$2,500.00; provided that, Mortgagee has given at least fifteen (15) days prior written notice to Mortgagor of such failure by Mortgagor to timely submit the applicable Required Record and the opportunity to cure such default by delivering the applicable Required Record during such fifteen (15) day period. Notwithstanding the foregoing, in the event that Mortgagor fails to provide Mortgagee with Pre-Securitization Financials on or before the date they are due and such failure continues for three (3) days after notice from Mortgagee of such failure, Mortgagor shall pay to Mortgagee at Mortgagee's option and in its sole discretion, an amount equal to \$2,500.00 for each month that Mortgagor fails to deliver the required Pre-Securitization Financials.

18. Performance of Other Agreements. Mortgagor shall observe and perform each and every material term to be observed or performed by Mortgagor pursuant to the terms of any of the Intangibles or any other agreement or recorded instrument affecting or pertaining to the Mortgaged Property. Mortgagor further covenants and agrees to (a) give prompt notice to the

Mortgagee of any material notice received by the Mortgagor concerning any of the Intangibles or any such other agreement or recorded instruments, together with a complete copy of any such notice, (b) enforce, short of termination thereof, the performance and observance of each and every material term, covenant and provision of the Intangibles and any such other agreement and recorded instrument to be performed or observed, if any, and (c) not terminate any of the Intangibles or any such other agreement or recorded statement without the prior written consent of the Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed.

19. Further Acts, Etc.

(a) Mortgagor will, at the cost of Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, Uniform Commercial Code financing statements, financing statement amendments or continuation statements, transfers and assurances as Mortgagee shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Mortgagee the property and rights hereby mortgaged, given, granted, bargained, sold, alienated, enfeoffed, conveyed, confirmed, pledged, assigned and hypothecated or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage or for facilitating the sale of the Loan and the Loan Documents as described in the Loan Cooperation Agreement. Mortgagor will execute and deliver, and hereby authorizes Mortgagee to execute in the name of Mortgagor or without the signature of Mortgagor to the extent Mortgagee may lawfully do so when Mortgagor has failed to do so after Mortgagee's written request, one or more financing statements, financing statement amendments, chattel mortgages or other instruments, to evidence more effectively the security interest of Mortgagee in the Mortgaged Property. Upon foreclosure, the appointment of a receiver or any other relevant action, Mortgagor will, at the cost of Mortgagor and without expense to Mortgagee, cooperate fully and completely to effect the assignment or transfer of any license, permit, agreement or any other right necessary or useful to the operation of the Mortgaged Property. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including, without limitation, such rights and remedies available to Mortgagee pursuant to this Paragraph.

(b) Neither Mortgagee nor Mortgagor may issue press releases, advertisements or other promotional materials describing in general terms or in detail the other's participation in the Loan without the consent of the other party, which consent will not be unreasonably withheld, delayed, or conditioned.

20. 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. Mortgagor will pay all filing, registration or recording fees or taxes, and all expenses incident to the preparation, execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property and any instrument of further assurance, and all federal, state, county and municipal, taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property or any instrument of further assurance, except where prohibited by law so to do. **MORTGAGOR HEREBY AGREES, AT ITS SOLE COST AND EXPENSE, TO PROTECT, DEFEND, INDEMNIFY, RELEASE AND HOLD HARMLESS THE INDEMNIFIED PARTIES (AS DEFINED BELOW) FOR, FROM AND AGAINST, AND SHALL BE RESPONSIBLE FOR, ANY AND ALL LOSSES (AS DEFINED BELOW) IMPOSED UPON OR INCURRED BY OR ASSERTED AGAINST ANY INDEMNIFIED PARTIES AND DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN ANY WAY RELATING TO ANY TAX IMPOSED UPON THE MAKING AND/OR RECORDING OF ANY OF THE LOAN DOCUMENTS.**

21. Notice of Certain Events. Mortgagor agrees to give prompt notice to Mortgagee of the insolvency or bankruptcy filing of Mortgagor or the death, insolvency or bankruptcy filing of Guarantor.

22. 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 events of default listed below (each an "Event of Default"). (Whenever the phrase "Event of Default exists" is used in this Mortgage or any of the other Loan Documents, it is deemed to mean that the applicable grace, notice and/or cure period, if any, expressly provided for in the Loan Documents has expired and the subject Event of Default is continuing and has not been cured.)

(a) failure to make payment of (1) interest or principal on the Note on or prior to the date the same is due; provided that Mortgagee agrees that an Event of Default shall not exist the first and second time during the term of the Loan, but only the first or second time during the term of the Loan, that Mortgagor fails to make payment of interest or principal on or prior to the date the same is due unless such failure continues for five (5) days after receipt of notice from Mortgagee of such failure, or (2) the entire Debt on or before the Maturity Date;

(b) subject to Mortgagor's right to contest as provided herein, any of the Taxes or Other Charges are not paid when the same are due and payable (unless and to the extent such failure is due to Mortgagee's failure to pay Taxes when sums sufficient for such purpose are on deposit in the Tax and Insurance Impound and no other Event of

Default exists) and such failure continues for thirty (30) days after notice to Mortgagor of its failure to pay any Taxes or Other Charges;

(c) the Policies are not kept in full force and effect (unless the same results from Mortgagee's failure to pay the applicable premiums therefor when sums sufficient for such purpose are on deposit in the Tax and Insurance Impound and no other Event of Default exists), or evidence of the Policies is not delivered to Mortgagee as required under Paragraph 2 of this Mortgage and such failure to deliver such evidence continues for ten (10) days after written notice of such failure is given to Mortgagor;

(d) a Transfer is made in violation of the applicable terms of this Mortgage;

(e) any representation or warranty of Mortgagor or Guarantor, made herein or in any other Loan Document or in any certificate, report, financial statement or other instrument or document furnished to Mortgagee by Mortgagor or Guarantor shall have been false or misleading in any material respect when made; provided that if the breach was not intentional and the condition that gave rise to the breach of a representation or warranty is susceptible of being cured, such representation or warranty remains untrue or incorrect in a material respect for a period ending thirty (30) days after Mortgagor receives written notice of the falsity or inaccuracy of such representation or warranty; provided further that if the breach of the representation or warranty is susceptible of cure but cannot reasonably be cured within such thirty (30)-day period and Mortgagor shall have commenced to cure such breach within such thirty (30)-day period and thereafter diligently, continuously and expeditiously proceeds to cure the same, Mortgagor shall have such additional time as is reasonably necessary to effect such cure; and, provided further that if the breach was not intentional but the condition that gave rise to the breach of a representation or warranty is not susceptible of being cured (and any condition that can be cured with the payment of a sum of money, no matter how large a sum, is a condition that is susceptible to be cured) and which does not constitute or result in a Material Adverse Effect, such breach shall not be deemed to be an Event of Default, and in connection therewith Mortgagor shall promptly provide Mortgagee with a written statement explaining why such condition is not susceptible to being cured;

(f) Mortgagor or Guarantor shall make an assignment for the benefit of creditors or Mortgagor or Guarantor shall generally not be paying its debts as they become due;

(g) a receiver, liquidator or trustee of Mortgagor or of Guarantor shall be appointed or Mortgagor or Guarantor shall be adjudicated a bankrupt or insolvent, or 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 Guarantor or any proceeding for the dissolution or liquidation of Mortgagor or of 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) subject to Mortgagor's right to contest certain liens as provided for in this Mortgage, the Mortgaged Property becomes subject to any lien, except a lien for local real estate taxes and assessments not then due and payable, and such lien is not discharged of record (by payment, bonding or otherwise) within thirty (30) calendar days after the date the same is filed of record;

(i) any federal tax lien is filed against Mortgagor, Guarantor, or any of the Mortgaged Property, and the same is not discharged (by payment, bonding or otherwise) within sixty (60) calendar days after the date the same is served on Mortgagor or Guarantor or is filed of record, whichever occurs first; provided that if the same may not be discharged within such sixty(60) calendar day period for any reason other than the failure or inability to pay any sum of money then such additional time as may be necessary to discharge the same shall be afforded so long as the effort to discharge the same commences within the initial sixty (60) day period and thereafter such effort is diligently and continuously prosecuted to completion;

(j) Mortgagor fails to cure properly any violations of laws or ordinances affecting the Mortgaged Property within thirty (30) days after Mortgagor first receives notice of any such violations; provided, however, if such violations are reasonably susceptible of cure, but not within such thirty (30) day period, then Mortgagor shall have an additional one hundred twenty (120) days to cure such default (or such longer period as may be reasonably necessary), provided that Mortgagor commences a cure within such initial thirty (30) day period and thereafter diligently and continuously pursues such cure; provided further, if such violation is not susceptible of a cure, the failure to cure does not result in a Material Adverse Effect, and Mortgagor takes such acts as are commercially reasonable to mitigate the violation to the extent reasonably possible, such failure to cure shall not be deemed an Event of Default, and in connection therewith Mortgagor shall promptly provide Mortgagee with a written statement explaining why such violation is not susceptible to being cured;

(k) except as permitted in this Mortgage or required pursuant to the terms of any Lease, the alteration, improvement, demolition or removal of any of the Improvements, or any construction on the Premises, without the prior consent of Mortgagee;

(l) 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) Mortgagor fails to cure a default under any other term, covenant or provision of this Mortgage (other than those referred to in any other clause of this Paragraph 22 or for which a notice and cure period is provided for elsewhere in this

Mortgage); provided that if such default referred to in this Subparagraph is susceptible of being cured by the payment of any sum of money, such default shall not constitute an Event of Default unless and until it remains uncured for fifteen (15) days after Mortgagor first receives written notice thereof or, if such default is not susceptible of being cured by the payment of any sum of money, such default shall not constitute an Event of Default unless and until it shall remain uncured for thirty (30) days after Mortgagor first receives written notice thereof; provided further, that if such a default is susceptible of cure but cannot reasonably be cured within such thirty (30)-day period and Mortgagor shall have commenced to cure such breach within such thirty (30)-day period and thereafter diligently, continuously and expeditiously proceeds to cure the same, Mortgagor shall have such additional time as is reasonably necessary to effect such cure;

(n) except as permitted herein or in any other Loan Document, without Mortgagee's prior written consent, which consent will not be unreasonably withheld, delayed, or conditioned, (i) the Management Agreement is terminated by Mortgagor, (ii) Mortgagor permits or consents to a transfer of the ownership, management or Control of Property Manager other than to an Affiliate of Mortgagor or any other Person not previously approved by Mortgagee pursuant to Paragraph 1(j) hereof (iii) there is a material change in the Management Agreement, or (iv) there is a material default by Mortgagor under the Management Agreement that remains uncured beyond the applicable cure period; or

(o) there shall occur any default by Mortgagor, as tenant under the Ground Lease, in the observance or performance of any term, covenant or condition of the Ground Lease on the part of Mortgagor to be observed or performed, and said default is not cured prior to the expiration of any applicable grace, notice, or cure period therein provided, or any one or more of the events referred to in the Ground Lease as Events of Default shall occur which would cause the Ground Lease to terminate without notice or action by Ground Lessor (which is the party identified as such in the description of the Ground Lease on Annex 1) or which would entitle Ground Lessor to terminate the Ground Lease and the term thereof by giving notice to Mortgagor, as tenant thereunder, or the leasehold estate created by the Ground Lease shall be surrendered or the Ground Lease shall be terminated or cancelled for any reason or under any circumstances whatsoever, or any of the terms, covenants or conditions of the Ground Lease shall in any manner be materially modified, changed, supplemented, altered, or amended without the prior written consent of Mortgagee, which consent will not be unreasonably withheld, delayed, or conditioned.

23. Late Payment Charge. If any portion of the Debt (other than the portion of the Debt due on the Maturity Date) is not paid on or prior to 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.

24. Mortgagee's Right To Cure Defaults. Whenever an Event of Default exists, 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.

25. Remedies.

(a) Whenever an Event of Default exists, 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, including, but limited to those actions set forth on Annex 1 and the following:

(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 contained herein 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) 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, Guarantor or of any person, firm or other entity liable for the payment of the Debt.

(viii) At any time, and without notice, either in person, by agent, or by receiver to be appointed by a court, enter and take possession of the Mortgaged Property or any part thereof, and in its own name, sue for or otherwise collect the Rents. Mortgagor hereby agrees that Mortgagee shall have the right (in its sole discretion), whenever an Event of Default exists, to terminate the License granted to Mortgagor in Paragraph 7 hereof, and thereafter direct by written notice to the lessees under the Leases ("Lease Rent Notice") to pay directly to Mortgagee the Rents due and to become due under the Leases and attorn in respect of all other obligations thereunder directly to Mortgagee without any obligation on the part of the lessees to determine whether an Event of Default does in fact exist or has in fact occurred. If Mortgagor cures such Event of Default, Mortgagee shall rescind any such Lease Rent Notices, and the License granted to Mortgagor in Paragraph 7 hereof shall be automatically reinstated. All Rents collected by Mortgagee shall be applied as provided for in Paragraph 7 of this Mortgage; provided, however, that if the costs, expenses, and attorneys' fees shall exceed the amount of Rents collected, the excess shall be added to the Debt, shall bear interest at the Default Rate, and shall be immediately due and payable. The entering upon and taking possession of the Mortgaged Property, the collection of Rents, and the application thereof as aforesaid shall not cure or waive any Event of Default or notice of default, if any, hereunder nor invalidate any act done pursuant to such notice, except to the extent any such default is fully cured. Failure or discontinuance by Mortgagee at any time or from time to time, to collect said Rents shall not in any manner impair the subsequent enforcement by Mortgagee of the right, power and authority herein conferred upon it. Nothing contained herein, nor the exercise of any right, power, or authority herein granted to Mortgagee shall be, or shall be construed to be, an affirmation by it of any tenancy, lease, or option, nor an assumption of liability under, nor the subordination of, the lien or charge of this Mortgage, to any such tenancy, lease,

or option, nor an election of judicial relief, if any such relief is requested or obtained as to Leases or Rents, with respect to the Mortgaged Property or any collateral given by Mortgagor to Mortgagee. In addition, from time to time Mortgagee may elect, and notice hereby is given to each lessee under any Lease, to subordinate the lien of this Mortgage to any Lease by unilaterally executing and recording an instrument of subordination, and upon such election the lien of this Mortgage shall be subordinate to the Lease identified in such instrument of subordination; provided, however, in each instance such subordination will not affect or be applicable to, and expressly excludes any lien, charge, encumbrance, security interest, claim, easement, restriction, option, covenant and other rights, titles, interests or estates of any nature whatsoever with respect to all or any portion of the Mortgaged Property to the extent that the same may have arisen or intervened during the period between the recordation of this Mortgage and the execution of the Lease identified in such instrument of subordination.

(ix) 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.

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

(xi) In the event of a sale, by foreclosure or deed-in-lieu thereof, 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) 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's sole discretion. No such action shall in any way be considered a waiver 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 in 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 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 25 (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 or in any of 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.

26. Right of Entry and Inspection. In addition to any other rights or remedies granted under this Mortgage, Mortgagee, and their agents shall have the right, subject to the rights of tenants under Leases, to enter and inspect the Premises, Improvements and Equipment at any reasonable time during the Term, and inspect, examine, audit and copy Mortgagor's books and records, including all recorded data of any kind or nature, regardless of the medium of recording. The cost of such inspections, examinations, copying 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, audits or inquiries deemed reasonably necessary by Mortgagee. The cost of such inspections, examinations, audits and copying, 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. If Mortgagor prohibits, bars or fails to permit Mortgagee or its agents from entering and inspecting the Premises, Improvements and Equipment at any reasonable time during the Term, or from inspecting, examining, auditing and copying Mortgagor's books and records, including all recorded data of any kind or nature, regardless of the medium of recording, for more than five (5) days after a request is made by Mortgagee to do so, Mortgagor agrees to pay Mortgagee on demand the sum of \$1,000.00 for each day after such five (5) day period that Mortgagor so prohibits, bars or fails, and such sum or sums shall be part of the Debt.

27. 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 assets, rights and interests, whether tangible or intangible in nature, including all proceeds and products thereof, and all supporting obligations ancillary to or arising in any way in connection therewith, of Mortgagor

in the Mortgaged Property. It is the intent of Mortgagor and Mortgagee that the lien and security interest granted in this Mortgage encumber all Leases and that all items contained in the definition of "Leases" which are included within the Uniform Commercial Code be covered by the security interest granted in this Paragraph 27; and all items contained in the definition of "Leases" which are excluded from the Uniform Commercial Code be covered by the grant of a mortgage lien against the Mortgaged Property contained in this Mortgage. 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"). Mortgagor hereby agrees with Mortgagee to execute and deliver to Mortgagee, in form and substance satisfactory to Mortgagee, such financing statements, financing statement amendments and such further assurances as Mortgagee may from time to time, reasonably consider necessary to create, perfect, and preserve Mortgagee's security interest herein granted. Mortgagor agrees that this Mortgage constitutes a financing statement filed and recorded as a fixture filing in the Official Records of the County of the State where the Premises are located with respect to any and all fixtures included within the term "Premises" or "Collateral" as used herein and with respect to any goods and other personal property that may now be or hereafter become fixtures. The names and mailing addresses of the debtor (Mortgagor) and the secured party (Mortgagee) are set forth on page one of this Mortgage. Mortgagor is the record owner of the leasehold estate in the Premises. Ground Lessor is the record owner of fee title to the Premises. The personal property described above is the collateral covered by this financing statement. Any reproduction of this Mortgage or any other security agreement or financing statement shall be sufficient as a financing statement. If an Event of Default exists, 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 fees and disbursements, incurred or paid by Mortgagee in protecting the 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 ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor; provided that if Mortgagee fails to comply with this sentence in any respect, its liability for such failure shall be limited to the liability (if any) imposed on it as a matter of law under the Uniform Commercial Code. 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. Mortgagee may comply with any applicable state or federal law or regulatory requirements in connection with a disposition of the Collateral, and such compliance will not be considered or deemed to affect adversely the commercial reasonableness of any sale of the Collateral.

Mortgagee may sell the Collateral without giving any warranties as to the Collateral, and specifically disclaim any warranties of title, merchantability, fitness for a specific purpose or the like, and this procedure will not be considered or deemed to affect adversely the commercial reasonableness of any sale of the Collateral. Mortgagor acknowledges that a private sale of the Collateral may result in less proceeds than a public sale, and Mortgagor acknowledges that the Collateral may be sold at a loss to Mortgagor, and that, in such event, Mortgagee shall have no liability or responsibility to Mortgagor or any other party for such loss. If Mortgagee shall require the filing or recording of additional Uniform Commercial Code financing statements, amendments thereto or continuation statements, Mortgagor shall, promptly after request, execute, file and record such Uniform Commercial Code financing statements, amendments thereto or continuation statements as Mortgagee shall deem necessary, and shall pay all expenses and fees in connection with the filing and recording thereof, it being understood and agreed, however, that no such additional documents shall increase Mortgagor's obligations under the Note, this Mortgage or any of the other Loan Documents. Mortgagor hereby authorizes Mortgagee at any time and from time to time to file and record any initial financing statements, amendments thereto and continuation statements with or without the signature of Mortgagor as authorized by applicable law. For purposes of such filings, Mortgagor agrees to furnish promptly any information reasonably requested by Mortgagee. Mortgagor also hereby ratifies its authorization for Mortgagee to have filed any like initial financing statements, amendments thereto or continuation statements if filed prior to the date of this Mortgage. Mortgagor hereby irrevocably appoints Mortgagee and any officer or agent of Mortgagee, with full power of substitution, as its true and lawful attorney-in-fact, coupled with an interest, with full irrevocable power and authority in the place and stead of Mortgagor or in Mortgagor's name to execute in Mortgagor's name any such documents and to otherwise carry out the purposes of this paragraph, to the extent that Mortgagor's authorization above is deemed not to be sufficient as a matter of law. To the extent permitted by law, Mortgagor hereby ratifies all acts said attorneys-in-fact shall lawfully do, have done in the past or cause to be done in the future by virtue hereof.

28. 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 their 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.

29. Contest of Certain Claims. At its own expense, Mortgagor may contest in good faith and with due diligence, the amount or validity or application in whole or in part of any Taxes, Other Charges or mechanic's or materialman's lien asserted against the Mortgaged Property if, and so long as, (a) Mortgagor shall have notified Mortgagee of the same within ten (10) days of obtaining knowledge thereof; (b) such contest shall operate to prevent the enforcement or collection of the same and the sale of the Mortgaged Property or any part thereof, to satisfy the same; (c) Mortgagor shall have furnished to Mortgagee a cash deposit, or an indemnity bond satisfactory to Mortgagee with a surety satisfactory to Mortgagee, in the amount

of one hundred twenty-five percent (125%) of the Taxes, Other Charges or mechanic's or materialman's lien claim, plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, to assure payment of the matters under contest and to prevent any sale or forfeiture of the Mortgaged Property or any part thereof; (d) Mortgagor shall promptly upon final determination thereof pay the amount of any such Taxes, Other Charges or claim so determined, together with all costs, interest and penalties which may be payable in connection therewith; (e) the failure to pay the Taxes, Other Charges or mechanic's or materialman's lien claim does not constitute a default under any other mortgage or security interest covering or affecting any part of the Mortgaged Property; and (f) notwithstanding the foregoing, Mortgagor shall immediately upon request of Mortgagee pay (and if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, pay or cause to be discharged or bonded against) any such Taxes, Other Charges or claim notwithstanding such contest, if in the reasonable opinion of Mortgagee, the Mortgaged Property or any part thereof or interest therein may be in danger of being sold, forfeited, foreclosed, terminated, canceled or lost. Mortgagee may pay over any such cash deposit or part thereof to the claimant entitled thereto at any time when, in the reasonable judgment of Mortgagee, the entitlement of such claimant is established.

30. Recovery of Sums Required to be Paid. Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

31. Marshalling and Other Matters. Mortgagor hereby waives, to the full extent permitted by law, the benefit of all appraisement, homestead, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling 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. Mortgagor has read and hereby approves the Note, this Mortgage, the other Loan Documents and all other agreements and documents relating thereto. Mortgagor acknowledges that it has been represented by counsel of its choice to review this Mortgage, the Note, and other Loan Documents and all other documents relating thereto and said counsel has explained and Mortgagor understands the provisions thereof, or that Mortgagor has voluntarily declined to retain such counsel.

32. Hazardous Substances. All of the terms and provisions of Article II of the Environmental Indemnity are hereby incorporated into this Mortgage for all purposes as if set forth verbatim herein.

33. Environmental Operations. All of the terms and provisions of Section 3.1 of the Environmental Indemnity are hereby incorporated into this Mortgage for all purposes as if set forth verbatim herein.

34. Environmental Monitoring. All of the terms and provisions of Section 3.2 of the Environmental Indemnity are hereby incorporated into this Mortgage for all purposes as if set forth verbatim herein.

35. Compliance with Law; Alterations.

(a) Subject to Mortgagor's right to contest their application to the Premises and Improvements and the provisions of this Mortgage limiting any of Mortgagor's obligations with respect to the Premises and Improvements, Mortgagor agrees that the Premises and Improvements shall at all times comply in all material respects with all applicable Access Laws, and in connection therewith Mortgagor may, without Mortgagee's prior consent, make such alterations and improvements to the Premises and Improvements as may be reasonably necessary in order for Mortgagor to comply with this Subparagraph.

(b) Notwithstanding any provisions set forth herein or in any other document regarding Mortgagee's approval of alterations of the Premises or Improvements, Mortgagor shall not alter the Premises or Improvements in any manner which would increase Mortgagor's responsibilities for compliance with the applicable Access Laws without the prior written approval of Mortgagee, such approval not to be unreasonably withheld, delayed or conditioned. Mortgagee's approval of the plans, specifications, or working drawings for alterations of the Premises or Improvements shall create no responsibility or liability on behalf of Mortgagee for their completeness, design, sufficiency or their compliance with the Access Laws. The foregoing shall apply to tenant improvements constructed by Mortgagor or by any of its tenants. Mortgagee may condition any such approval upon receipt of a certificate of Access Law compliance from an independent architect, engineer, or other person acceptable to Mortgagee.

(c) Mortgagor agrees to give prompt notice to Mortgagee of the receipt by Mortgagor of any complaints related to violation of any Access Laws and of the commencement of any proceedings or investigations which relate to compliance with applicable Access Laws.

(d) Mortgagor shall take all appropriate measures to prevent, and will not engage in or knowingly permit any party to engage in, any criminal or illegal activities at the Premises or Improvements.

36. Indemnification.

(a) **MORTGAGOR, AT ITS SOLE COST AND EXPENSE, SHALL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE**

INDEMNIFIED PARTIES (DEFINED BELOW) FOR, FROM AND AGAINST, AND SHALL BE RESPONSIBLE FOR, ALL LOSSES (AS DEFINED BELOW) IMPOSED UPON OR INCURRED BY OR ASSERTED AGAINST ANY OF THE INDEMNIFIED PARTIES 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 PREMISES OR IMPROVEMENTS 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 PREMISES OR IMPROVEMENTS 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) ANY FAILURE OF THE MORTGAGED PROPERTY TO COMPLY WITH ANY APPLICABLE LAW, INCLUDING ACCESS LAWS; (G) 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; (H) 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 ANY INDEMNIFIED PARTY WITH RESPECT THERETO; AND (I) ANY AND ALL CLAIMS AND DEMANDS WHATSOEVER WHICH MAY BE ASSERTED AGAINST ANY INDEMNIFIED PARTY BY REASON OF ANY ALLEGED OBLIGATIONS OR UNDERTAKINGS ON SUCH PARTY'S PART TO PERFORM OR DISCHARGE ANY OF THE TERMS, COVENANTS, OR AGREEMENTS CONTAINED IN ANY LEASE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE INDEMNIFICATIONS AND OTHER OBLIGATIONS PROVIDED FOR BY THIS PARAGRAPH 36 SHALL NOT APPLY TO, AND MORTGAGOR SHALL HAVE NO LIABILITY TO OR OBLIGATION TO INDEMNIFY OR REIMBURSE ANY INDEMNIFIED PARTY FOR, NOR TO INCUR ANY COST OR OTHER OBLIGATION IN CONNECTION WITH, ANY LOSSES IMPOSED UPON OR INCURRED BY ANY INDEMNIFIED PARTY ARISING FROM ANY OF THE MATTERS DESCRIBED IN THIS PARAGRAPH 36 THAT (I) ARE DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNIFIED PARTY, OR (II) RESULT

FROM EVENTS OR CIRCUMSTANCES FIRST OCCURRING (AS OPPOSED TO FIRST DISCOVERED) (X) AFTER PAYMENT OF THE DEBT IN FULL OR A DEFEASANCE OF THE LOAN AS PERMITTED BY THIS MORTGAGE, (Y) WHILE ANY RECEIVER APPOINTED AT THE REQUEST OF MORTGAGEE HOLDS POSSESSION (TO THE EXCLUSION OF MORTGAGOR) OF THE MORTGAGED PROPERTY, OR (Z) AFTER THE TERMINATION OR RELEASE OF THIS MORTGAGE BY MORTGAGEE, A PROPERTY TRANSFER PERMITTED BY THIS MORTGAGE, OR MORTGAGEE OR ITS SUCCESSORS OR ASSIGNS ACQUIRES TITLE TO THE MORTGAGED PROPERTY BY FORECLOSURE OR CONVEYANCE IN LIEU OF FORECLOSURE. EACH AND ALL OF THE REPRESENTATIONS, COVENANTS, AGREEMENTS, AND INDEMNITIES MADE OR GIVEN BY MORTGAGOR IN THIS MORTGAGE SHALL SURVIVE THE PAYMENT IN FULL OF THE DEBT, A DEFEASANCE PERMITTED BY THIS MORTGAGE, A PROPERTY TRANSFER PERMITTED BY THIS MORTGAGE, THE TERMINATION OR RELEASE OF THIS MORTGAGE BY MORTGAGEE, 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 CONVEYANCE IN LIEU OF FORECLOSURE, BUT ONLY TO THE EXTENT THAT LOSSES IMPOSED UPON OR INCURRED BY ANY INDEMNIFIED PARTY ARISE OUT OF EVENTS OR CIRCUMSTANCES FIRST OCCURRING (AS OPPOSED TO FIRST DISCOVERED) PRIOR TO SUCH PAYMENT IN FULL, PERMITTED DEFEASANCE, PERMITTED PROPERTY TRANSFER, THE TERMINATION OR RELEASE OF THIS MORTGAGE, OR THE ACQUISITION OF THE MORTGAGED PROPERTY BY FORECLOSURE OR CONVEYANCE IN LIEU OF FORECLOSURE.

(b) As used in this Mortgage, the term (i) "Indemnified Parties" means Mortgagee, any officers, directors, shareholders, partners, members, employees, agents, attorneys, servants, representatives, contractors, subcontractors, Affiliates or subsidiaries of Mortgagee, and the heirs, legal representatives, successors and assigns of Mortgagee (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of an Indemnified Party's assets and business), in all cases whether during the term of the Loan or as part of or following a foreclosure of the Loan; and (ii) the term "Losses" means any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, demands, causes of action, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards and amounts paid in settlement of whatever kind or nature (including but not limited to attorneys' fees and other costs of defense).

(c) Upon written request by any Indemnified Party, Mortgagor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by such Indemnified

Party. Notwithstanding the foregoing, any Indemnified Party may, in its sole discretion, engage its own attorneys and other professionals to defend or assist it, and, at the option of such Indemnified Party, its attorneys shall control the resolution of any claim or proceeding. Upon demand, Mortgagor shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

(d) Any amounts payable to Mortgagee by reason of the application of this Paragraph 36 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 the Indemnified Parties until paid.

37. Notices. Any notice, demand, statement, request or consent made hereunder shall be in writing, addressed to the address, as set forth above, of the party to whom such notice is to be given, or to such other address as Mortgagor or Mortgagee, as the case may be, shall designate in writing, and shall be deemed to be received by the addressee on (i) the day such notice is personally delivered to such addressee, (ii) the third (3rd) day following the day such notice is deposited with the United States postal service first class certified mail, return receipt requested, (iii) the day following the day on which such notice is delivered to a nationally recognized overnight courier delivery service, for overnight delivery to the addressee, or (iv) the day facsimile transmission is confirmed after transmission of such notice by telecopy to such telecopier number as Mortgagor or Mortgagee, as the case may be, shall have previously designated in writing.

38. Authority. Mortgagor represents and warrants to Mortgagee that it has full power, authority and right to execute, deliver and perform its obligations pursuant to this Mortgage, and to mortgage, give, grant, bargain, sell, alienate, enfeoff, convey, confirm, warrant, pledge, hypothecate and assign the Mortgaged Property pursuant to the terms hereof and to keep and observe all of the terms of this Mortgage on Mortgagor's part to be performed.

39. 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. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (a) the failure of Mortgagee to comply with any request of Mortgagor or Guarantor to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note, or the other Loan Documents, (b) the release, regardless of consideration, of the whole or any part of the Mortgaged Property, or of any person liable for the Debt or any portion thereof, or (c) any agreement or stipulation by Mortgagee extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or any of the other Loan Documents. Mortgagee may resort for the payment of the Debt to any other security held by Mortgagee in such order and manner as Mortgagee, in its sole discretion, may elect. Mortgagee may 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 foreclosure this Mortgage. 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. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

40. 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.

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

42. 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.

43. 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.

44. 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.

45. 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. The term "Mortgagor" means each Mortgagor and any subsequent owner or owners of the Mortgaged Property or any part thereof or any interest therein, including, but not limited to, the leasehold estate created by the Ground Lease; the term "Mortgagee" means Mortgagee and any grantee, beneficiary, owner or holder of this Mortgage, a national book entry system for registering a beneficial interest in this Mortgage that acts as a nominee for the Mortgagee and its successor and assigns, or the last person to whom this Mortgage has been assigned of record; the term "lien" means, as applicable in the context used, any mortgage, pledge, assignment, charge, encumbrance, lien, security title, security interest or other preferential arrangement; the term "Note" means the Note and any other evidence of indebtedness secured by this Mortgage together with all extensions, renewals, modifications, substitutions and amendments thereof; the term "person" includes an individual, corporation, partnership, limited liability company, trust, unincorporated association, government,

governmental authority, and any other entity; the term "Affiliate" means, as to any person, any other person that, directly or indirectly, is in control of, is controlled by or is under common control with such person; the term "Mortgaged Property" includes any portion of the Mortgaged Property and any interest therein, including, but not limited to, the leasehold estate created by the Ground Lease; the term "Access Laws" refers to all federal, state and local laws, orders, ordinances, governmental rules and regulations, and court orders affecting or which may be interpreted to affect the Mortgaged Property, or the use thereof, including, without limitation, the Americans with Disabilities Act, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, and the Fair Housing Amendments Act of 1988; the term "attorneys' fees" includes any and all reasonable attorney, paralegal and law clerk fees and disbursements, including, without limitation, fees and disbursements 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, whether with respect to retained firms, the reimbursement for the expenses of in-house staff or otherwise; the term "Bankruptcy Code" means Title 11 of the United States Code, as now or hereafter amended; the term "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute; in the phrase "State where the Premises are located" or "State where the real property is located" or other similar such phrases where the name of a particular State is not included, the term "State" means the State where the Premises are located; the term "Material Adverse Effect" means a material and adverse effect upon (i) the ability of Mortgagor or Guarantor to perform, or of Mortgagee to enforce, any material provision of any Loan Document that such Person is obligated to perform, or (ii) the ownership, operation, or use of the Mortgaged Property; and the term "Loan Documents" includes any and all extensions, renewals, substitutions, replacements, amendments, modifications and/or restatements of any of the Loan Documents. 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.

46. 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.

47. 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.

48. Waiver of Jury Trial. MORTGAGOR AND MORTGAGEE HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE TO THE EXTENT PERMITTED BY APPLICABLE LAW 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. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND

VOLUNTARILY BY MORTGAGOR AND MORTGAGEE, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MORTGAGEE AND MORTGAGOR ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

49. Recourse Provisions. Subject to the qualifications below, Mortgagee shall not enforce the liability and obligation of Mortgagor, to perform and observe the obligations contained in this Mortgage, the Note or in any of the other Loan Documents by any action or proceeding wherein a money judgment shall be sought against Mortgagor, except that Mortgagee may bring a foreclosure action, an action for specific performance or any other appropriate action or proceeding to enable Mortgagee to enforce and realize upon its interests under the Note, this Mortgage or the other Loan Documents or in the Mortgaged Property, the Rents or any other collateral given to Mortgagee pursuant to this Mortgage and the other Loan Documents; provided, however, that, except as specifically provided herein, any judgment in any such action or proceeding shall be enforceable against Mortgagor only to the extent of Mortgagor's interest in the Mortgaged Property, the Rents and any other collateral given to Mortgagee. By accepting this Mortgage, the Note and the other Loan Documents, Mortgagee agrees that it shall not, except as otherwise herein provided, sue for, seek or demand any deficiency judgment against Mortgagor in any such action or proceeding under or by reason of or under or in connection with this Mortgage, the Note or any of the other Loan Documents. The provisions of this paragraph shall not, however, (i) constitute a waiver, release or impairment of any obligation evidenced or secured by this Mortgage, the Note or any of the other Loan Documents; (ii) impair the right of Mortgagee to name Mortgagor, as a party defendant in any action or suit for foreclosure and sale under this Mortgage; (iii) affect the validity or enforceability of the Guaranty or any other guaranty or indemnity made in connection with the Loan or any rights and remedies of Mortgagee thereunder; (iv) impair the right of Mortgagee to obtain the appointment of a receiver; (v) impair the enforcement of the Assignment; or (vi) constitute a waiver of the right of Mortgagee to enforce the liability and obligation of Mortgagor, by money judgment or otherwise, to the extent of, but only to the extent of, any loss, damage, cost, expense, liability, claim or other obligation incurred by Mortgagee (including reasonable attorneys' fees and costs reasonably incurred) arising out of or in connection with the following:

(i) fraud, material misrepresentation, gross negligence or willful misconduct by Mortgagor or any of its officers, or Guarantor in connection with the Loan;

(ii) physical waste committed on the Mortgaged Property; damage to the Mortgaged Property as a result of the intentional misconduct or gross negligence of Mortgagor or any of their respective principals, officers, shareholders, partners or members, or any agent or employee of any such persons; or the removal of any portion of the Mortgaged Property in violation of the terms of the Loan Documents while an Event of Default exists;

(iii) subject to any right to contest such matters, as provided herein, failure to pay any valid Taxes (except to the extent, but only the extent, Mortgagee has failed to pay any valid Taxes from the funds on deposit for such purpose in the Tax and Insurance Escrow), mechanic's liens, materialmen's liens or other liens on any portion of the Mortgaged Property which would be superior to the lien or security title of this Mortgage or the other Loan Documents, to the full extent of the amount claimed by any such lien claimant;

(iv) all legal costs and expenses (including reasonable attorneys' fees) reasonably incurred by Mortgagee in connection with litigation or other legal proceedings involving the collection or enforcement of the Loan or preservation of Mortgagee's rights under the Loan Documents (other than those customarily incurred by a lender in realizing upon its lien in an uncontested foreclosure sale after an undisputed default), including any costs incurred by Mortgagee arising from or relating to the filing of a petition under the Bankruptcy Code by or against Mortgagor; provided that no amounts that may be recovered by Mortgagee pursuant to this clause (iv) shall include any amounts of principal or accrued interest thereon owed on the Loan;

(v) the breach of any representation, warranty, covenant or indemnification provision in the Environmental Indemnity;

(vi) the misappropriation by Mortgagor of (A) any insurance proceeds paid by reason of any loss, damage or destruction to the Mortgaged Property, (B) any awards or other amounts received in connection with the condemnation of all or a portion of the Mortgaged Property, or (C) any Rents while an Event of Default exists;

(vii) any security deposits or other refundable deposits collected with respect to the Mortgaged Property which are not delivered to Mortgagee upon a sale or foreclosure of the Mortgaged Property or other action in lieu thereof, except to the extent any such security deposits were applied in accordance with the terms and conditions of any of the Leases;

(viii) failure to pay to Mortgagee the amounts, if any, excess of \$10,000.00 due and owing Mortgagee pursuant to Paragraph 17(c) of this Mortgage; and

(ix) failure to maintain any one or more of the Policies required under Paragraph 2 of this Mortgage (except to the extent, but only the extent Mortgagee has failed to pay the Premiums for such Policies from the funds on deposit for such purpose in the Tax and Insurance Escrow) or to pay or provide the amount of any one or more insurance deductible in excess of \$50,000.00 following a Casualty or other insured event or claim.

Notwithstanding anything to the contrary in any of the Loan Documents (i) Mortgagee shall not be deemed to have waived any right which Mortgagee may have under Section 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Debt secured by this Mortgage or to require that all collateral shall continue to secure all of the Debt owing to Mortgagee in accordance with the Loan Documents, and (ii) the Debt shall be fully recourse to Mortgagor in the event that: (A) the Mortgaged Property or any part thereof becomes an asset in a voluntary bankruptcy or insolvency proceeding under the Bankruptcy Code, or in an involuntary bankruptcy or insolvency proceeding brought by Guarantor or an Affiliate of Mortgagor or Guarantor, or in an involuntary bankruptcy or insolvency proceeding in which Mortgagor, Guarantor or an Affiliate of Mortgagor or Guarantor has colluded or conspired with the person bringing such action; (B) Mortgagor fails to maintain its status as a single purpose entity as required by, and in accordance with, the terms and provisions of Paragraph 9 of this Mortgage and such failure is deemed material to the determination by a court of competent jurisdiction in any bankruptcy, insolvency, or reorganization proceeding to order the substantive consolidation of the assets and liabilities of Mortgagor with any other Person; (C) Mortgagor fails to obtain Mortgagee's prior written consent to any subordinate financing voluntarily incurred or (subject to Mortgagor's rights to contest under Paragraph 29 of this Mortgage) any other lien for any unpaid, outstanding indebtedness or obligation voluntarily incurred by Mortgagor and encumbering the Mortgaged Property or encumbering any ownership interests in Mortgagor in violation of the applicable terms and provisions of Paragraph 8 of this Mortgage; (D) Mortgagor fails to obtain Mortgagee's prior written consent to any voluntary assignment, transfer, or conveyance of the leasehold estate in the Premises or any portion thereof or any other voluntary assignment, transfer, or conveyance that results in a Change of Control of the Mortgaged Property in violation of the applicable terms and provisions of Paragraph 8 of this Mortgage; or (E) Mortgagor fails to obtain Mortgagee's prior written consent to any voluntary assignment, transfer, or conveyance of any ownership interests in Mortgagor that results in a Change of Control in violation of the applicable terms and provisions of Paragraph 8 of this Mortgage.

50. Miscellaneous.

(a) Mortgagor covenants and agrees not to engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Mortgagee of any of its rights under the Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Mortgagor further covenants and agrees to deliver to Mortgagee such certifications or other evidence from time to time throughout the Term, as requested by Mortgagee in its sole discretion, that (i) Mortgagor is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) Mortgagor is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (iii) one or more of the following circumstances is true: (A) Equity interests in Mortgagor are publicly offered securities, within the meaning of 29 C.F.R. § 2510.3-101(b)(2); (B) Less

than twenty-five percent (25%) of each outstanding class of equity interests in Mortgagor are held by "benefit plan investors" within the meaning of 29 C.F.R. § 2510.3-101(f)(2); or (C) Mortgagor qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. § 2510.3-101(c) or (e) or an investment company registered under the Investment Company Act of 1940. Mortgagor represents and warrants to Mortgagee that Mortgagor (1) has no knowledge of any material liability that has been incurred or is expected to be incurred by Mortgagor that is or remains unsatisfied for any taxes or penalties with respect to any "employee benefit plan," or any "plan," within the meaning of Section 4975(e)(1) of the Internal Revenue Code or any other benefit plan (other than a multiemployer plan) maintained, contributed to, or required to be contributed to by Mortgagor or by any entity that is under common control with Mortgagor within the meaning of ERISA Section 4001(a)(14) (a "Plan") or any plan that would be a Plan but for the fact that it is a multiemployer plan within the meaning of ERISA Section 3(37), (2) has made and shall continue to make when due all required contributions to all such Plans, if any, (3) each Plan, if any, has been and will be administered in compliance with its terms and the applicable provisions of ERISA, the Internal Revenue Code, and any other applicable federal or state law, and (4) no action shall be taken or fail to be taken that would result in the disqualification or loss of tax-exempt status of any such Plan, if any, intended to be qualified and/or tax exempt. **MORTGAGOR FURTHER COVENANTS AND AGREES AT ITS SOLE COST AND EXPENSE TO PROTECT, DEFEND, INDEMNIFY AND HOLD THE INDEMNIFIED PARTIES HARMLESS FOR, FROM AND AGAINST, AND BE RESPONSIBLE FOR, ALL LOSSES THAT ANY INDEMNIFIED PARTY MAY INCUR AS A RESULT OF MORTGAGOR'S BREACH OF THE COVENANTS IN THIS PARAGRAPH.** The covenants and indemnity contained in this paragraph shall survive the extinguishment of the lien of this Mortgage by foreclosure or action in lieu thereof; furthermore, the foregoing indemnity shall supersede any limitations on Mortgagor's liability under any of the Loan Documents.

(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, to Mortgagor's actual knowledge, 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. Mortgagor hereby covenants and agrees not to commit, permit or suffer to exist any act, omission or circumstance affording such right of forfeiture. **IN FURTHERANCE THEREOF, MORTGAGOR HEREBY FURTHER COVENANTS AND AGREES AT ITS SOLE COST AND EXPENSE TO**

PROTECT, DEFEND, INDEMNIFY AND HOLD THE INDEMNIFIED PARTIES HARMLESS FOR, FROM AND AGAINST, AND BE RESPONSIBLE FOR, ANY AND ALL LOSSES INCURRED BY ANY INDEMNIFIED PARTY BY REASON OF THE BREACH OF THE COVENANTS AND AGREEMENTS OR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS PARAGRAPH. Without limiting the generality of the foregoing, if the filing of formal charges or the commencement of proceedings against Mortgagor or all or any part of the Mortgaged Property under any federal or state law for which forfeiture of the Mortgaged Property or any part thereof or of any monies paid in performance of Mortgagor's obligations under the Loan Documents is a potential result, shall, at the election of Mortgagee, constitute an Event of Default hereunder without notice or opportunity to cure.

(d) Mortgagor acknowledges that, with respect to the Loan, Mortgagor is relying solely on its own judgment and advisors in entering into the Loan without relying in any manner on any statements, representations or recommendations of Mortgagee or any parent, subsidiary or Affiliate of Mortgagee. Mortgagor acknowledges that Mortgagee engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of the Mortgagor or its Affiliates. Mortgagor acknowledges that it is represented by competent counsel and has consulted counsel before executing the Loan Documents.

(e) Mortgagor covenants and agrees to pay Mortgagee upon receipt of written notice from Mortgagee, all reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements and the costs and expenses of any title insurance company, appraisers, engineers or surveyors) incurred by Mortgagee in connection with (i) the preparation, negotiation, execution and delivery of this Mortgage and the other Loan Documents; (ii) Mortgagor's performance of and compliance with Mortgagor's respective agreements and covenants contained in this Mortgage and the other Loan Documents on its part to be performed or complied with after the date hereof; (iii) Mortgagee's performance and compliance with all agreements and conditions contained in this Mortgage and the other Loan Documents on its part to be performed or complied with after the date hereof; (iv) the negotiation, preparation, execution, delivery and administration of any consents, amendments, waivers or other modifications to this Mortgage and the other Loan Documents; and (v) the filing and recording fees and expenses, title insurance fees and expenses, and other similar expenses incurred in creating and perfecting the lien in favor of Mortgagee pursuant to this Mortgage and the other Loan Documents.

(f) **THE PERFECTION, VALIDITY, AND ENFORCEMENT OF THIS MORTGAGE, THE ASSIGNMENT, AND THE OTHER LOAN DOCUMENTS, TO THE EXTENT THEY INVOLVE THE CREATION, PERFECTION, VALIDITY, OR ENFORCEMENT OF LIENS AND SECURITY INTERESTS**

AGAINST THE MORTGAGED PROPERTY, SHALL BE GOVERNED BY AND CONSTRUED, INTERPRETED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED (WITHOUT REGARD TO ANY CONFLICT OF LAWS PRINCIPLES) AND APPLICABLE UNITED STATES FEDERAL LAW. ALL OTHER ASPECTS OF THE LOAN AND ALL OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED FOR OTHERWISE) SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO ANY CONFLICT OF LAWS PRINCIPLES) AND APPLICABLE UNITED STATES FEDERAL LAW. IT IS THE INTENT OF MORTGAGOR AND MORTGAGEE THAT THE PROVISIONS OF SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK APPLY TO THE LOAN DOCUMENTS. MORTGAGOR AND MORTGAGEE, TO THE FULLEST EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (A) SUBMIT TO PERSONAL JURISDICTION IN THE STATE WHERE THE PREMISES ARE LOCATED OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON THAT INVOLVES THE CREATION, PERFECTION, VALIDITY, OR ENFORCEMENT OF LIENS AND SECURITY INTERESTS AGAINST THE MORTGAGED PROPERTY, (B) AGREE THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION SITTING IN EITHER THE CITY OR THE COUNTY WHERE THE PREMISES ARE LOCATED, (C) SUBMIT TO THE JURISDICTION OF SUCH COURTS, AND (D) TO THE FULLEST EXTENT PERMITTED BY LAW, AGREE THAT MORTGAGOR AND MORTGAGEE, RESPECTIVELY, WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING THAT INVOLVES THE CREATION, PERFECTION, VALIDITY, OR ENFORCEMENT OF LIENS AND SECURITY INTERESTS AGAINST THE MORTGAGED PROPERTY IN ANY OTHER FORUM, AND MORTGAGOR AND MORTGAGEE FURTHER CONSENT AND AGREE TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID, TO MORTGAGOR AND MORTGAGEE, RESPECTIVELY, AT THEIR RESPECTIVE ADDRESSES AS PROVIDED FOR IN THIS MORTGAGE, AND CONSENT AND AGREE THAT SUCH SERVICE SHALL CONSTITUTE IN EVERY RESPECT VALID AND EFFECTIVE SERVICE (BUT NOTHING HEREIN SHALL AFFECT THE VALIDITY OR EFFECTIVENESS OF PROCESS SERVED IN ANY OTHER MANNER PERMITTED BY LAW).

(g) Notwithstanding any provision of this Mortgage to the contrary, each deposit account required to be maintained pursuant to this Mortgage or any other Loan Document shall be an "Eligible Account." As used in this Mortgage, the term "Eligible Account" means (i) a segregated account maintained with an "Eligible Institution," or

(ii) a segregated trust account or accounts maintained with the corporate trust department of a federal depository institution or state-chartered depository institution which has an investment-grade rating and is subject to regulations regarding fiduciary funds on deposit under, or similar to, Title 12 of the Code of Federal Regulations Section 9.10(b) which, in either case, has corporate trust powers, acting in its fiduciary capacity. As used in this Mortgage, the term "Eligible Institution" means an institution (i) whose commercial paper, short-term debt obligations or other short-term deposits are rated at least A-1, Prime-1 or F-1, as applicable, by each of the Rating Agencies and whose long-term senior unsecured debt obligations are rated at least AA- or Aa3, as applicable, by each of the Rating Agencies, and whose deposits are insured by the Federal Deposit Insurance Corporation or (ii) with respect to which Mortgagee shall have received written determinations from the Rating Agencies to the effect that the use of such institution will not result in a requalification, reduction or withdrawal of any rating initially assigned or to be assigned in a Secondary Market Transaction.

51. Indemnification Paragraphs. MORTGAGOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS MORTGAGE CONTAINS CERTAIN INDEMNIFICATION PROVISIONS PURSUANT TO PARAGRAPHS 7, 19, 20, 36 and 50.

52. Representations and Warranties Regarding the Ground Lease. Mortgagor represents and warrants to Mortgagee that to Mortgagor's knowledge:

(a) The Ground Lease is in full force and effect in accordance with its terms and has not been modified or amended. There do not exist any other enforceable agreements concerning the Premises, Improvements or the Ground Lease, whether oral or written, between Ground Lessor and Mortgagor, except as shown on the title insurance policy issued to Mortgagee in connection with this Mortgage.

(b) Mortgagor has not mortgaged, pledged, granted a security interest in, or otherwise encumbered the lessee's interest in the Ground Lease that is superior to, or of equal priority with, this Mortgage, other than encumbrances permitted by this Mortgage.

(c) Mortgagor has not received, as of the date of this Mortgage, any notice that an event of default has occurred under the Ground Lease and to Mortgagor's actual knowledge, there exists no condition that, but for the passage of time or the giving of notice, or both, would result in an event of default under the terms of the Ground Lease. Mortgagor has no offsets, counterclaims, defenses, deductions or credits whatsoever against Ground Lessor with respect to the Ground Lease.

(d) To the extent, if any, required by the Ground Lease, Mortgagor has given, or will give promptly after the date hereof, notice to Ground Lessor of the Loan, this Mortgage, and Mortgagee's address. Mortgagor shall deliver a copy of such notice to Mortgagee promptly after giving the same to Ground Lessor.

53. Mortgagor's Covenants Regarding the Ground Lease. Mortgagor covenants and agrees with Mortgagee that Mortgagor shall (i) pay all rents, additional rents and other sums required to be paid by Mortgagor, as tenant under and pursuant to the provisions of the Ground Lease prior to the expiration of any applicable grace, notice, or cure period therein available to Mortgagor for failing to so pay, (ii) diligently perform and observe all of the material terms, covenants and conditions of the Ground Lease on the part of Mortgagor, as tenant thereunder, to be performed and observed prior to the expiration of any applicable grace, notice or cure period therein available to Mortgagor for failing to so perform, and (iii) promptly notify Mortgagee of the giving of any notice by Ground Lessor to Mortgagor asserting that Mortgagor is in default under the Ground Lease, and deliver to Mortgagee a true copy of each such notice. Mortgagor shall not, without the prior consent of Mortgagee, surrender the leasehold estate created by the Ground Lease or terminate or cancel the Ground Lease, or, whether either orally or in writing, modify, change, supplement, alter or amend the Ground Lease in any material respect (provided that in all events every modification, change, supplement, alteration, or amendment to any of the provisions of the Ground Lease that are customarily understood to be for the benefit of a holder of a mortgage loan are deemed material and shall require Mortgagee's prior consent), and Mortgagor hereby assigns to Mortgagee as further security for the payment of the Debt and for the performance and observance of the terms, covenants and conditions of this Mortgage all of the rights, privileges and prerogatives of Mortgagor, as tenant under the Ground Lease, to surrender the leasehold estate created by the Ground Lease or to terminate or cancel the Ground Lease, or modify, change, supplement, alter or amend in any material respect the Ground Lease, and any such surrender of the leasehold estate created by the Ground Lease or termination, cancellation, modification, change, supplement, alteration or amendment of the Ground Lease without the prior consent of Mortgagee shall be void and of no force and effect. If Mortgagor shall be in default under the Ground Lease, then, without limiting the generality of the other provisions of this Mortgage, and without waiving or releasing Mortgagor from any of its obligations hereunder, Mortgagee shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause the rights of Mortgagor in, to and under the Ground Lease to be kept unimpaired and free from default, even though the existence of such event of default or the nature thereof be questioned or denied by Mortgagor or by any party on behalf of Mortgagor. If Mortgagee shall make any payment or perform any act or take action in accordance with the preceding sentence, Mortgagee will notify Mortgagor of the making of any such payment, the performance of any such act, or the taking of any such action. In any such event, subject to the rights of tenants, subtenants and other occupants under the Leases, Mortgagee and any person designated by Mortgagee shall have, and are hereby granted, the right to enter upon the Premises and Improvements at any time and from time to time for the purpose of taking any such action. Mortgagee may pay and expend such reasonable sums of money as Mortgagee reasonably deems necessary for any such purpose and upon so doing shall be subrogated to any and all rights of Mortgagor. Mortgagor hereby agrees to promptly pay to Mortgagee all such sums so paid and expended by Mortgagee, together with interest thereon from the day of such payment at the Contract Rate (as defined in the Note). All sums so paid and expended by Mortgagee and the interest thereon shall be secured by the legal operation and effect of this Mortgage. If Ground Lessor shall deliver to Mortgagee a copy of any notice of default sent by Ground Lessor as landlord to Mortgagor as tenant under the Ground

Lease, such notice shall constitute full protection to Mortgagee for any action taken or omitted to be taken by Mortgagee, in good faith, in reliance thereon. Mortgagor shall exercise each individual option, if any, to extend or renew the terms of the Ground Lease upon demand by Mortgagee made at any time within one (1) year of the last day upon which any such option may be exercised, and Mortgagor hereby expressly authorizes and appoints Mortgagee its attorney-in-fact to exercise any such option in the name of and upon behalf of Mortgagor, which power of attorney shall be irrevocable and shall be deemed to be coupled with an interest. Mortgagor will not subordinate or consent to the subordination of the Ground Lease to any deed of trust, mortgage, security deed, lease or other interest on or in the landlord's interest in all or any part of the Mortgaged Property, unless, in each such case, the written consent of Mortgagee shall have been first had and obtained.

54. No Merger of Fee and Leasehold Estates; Releases. So long as any portion of the Debt shall remain unpaid, unless Mortgagee shall otherwise consent, which consent will not be unreasonably withheld, delayed, or conditioned, the fee title to the Premises and Improvements and the leasehold estate therein created pursuant to the Ground Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Mortgagor, Mortgagee, or in any other person by purchase, operation of law or otherwise. Mortgagee reserves the right, at any time, to release portions of the Mortgaged Property, including, but not limited to, the leasehold estate created by the Ground Lease, with or without consideration, at Mortgagee's election, without waiving or affecting any of its rights hereunder or under the Note or the other Loan Documents and any such release shall not affect Mortgagee's rights in connection with the portion of the Mortgaged Property not so released.

55. Mortgagor's Acquisition of Fee Estate. In the event that Mortgagor, so long as any portion of the Debt remains unpaid, shall be the owner and holder of the fee title to the Premises and/or Improvements, the lien of this Mortgage shall be spread to cover Mortgagor's fee title to the Premises and/or Improvements and said fee title shall be deemed to be included in the Mortgaged Property. Mortgagor agrees, at its sole cost and expense, including without limitation Mortgagee's reasonable attorneys' fees, to (i) execute any and all documents or instruments reasonably deemed necessary by Mortgagee to subject Mortgagor's fee title to the Premises and/or Improvements to the lien of this Mortgage; and (ii) provide a title insurance policy which shall insure that the lien of this Mortgage is a valid lien on Mortgagor's fee title to the Premises and/or Improvements. Notwithstanding the foregoing, if the Ground Lease is for any reason whatsoever terminated prior to the natural expiration of its term and if, pursuant to any provisions of the Ground Lease or otherwise, Mortgagee or its designee shall acquire from Ground Lessor a ground lease or leases in replacement thereof, Mortgagor shall have no right, title or interest in or to such other leases or the leasehold estate created thereby.

56. Rejection of the Ground Lease.

(a) If the Ground Lease is terminated for any reason due to the rejection or disaffirmance of the Ground Lease pursuant to the Bankruptcy Code or any other law affecting creditor's rights, (i) Mortgagor, immediately after obtaining notice thereof, shall

give notice thereof to Mortgagee, (ii) Mortgagor, without the prior written consent of Mortgagee, shall not elect to treat the Ground Lease as terminated pursuant to Section 365(h) of the Bankruptcy Code or any comparable federal or state statute or law, and any election by Mortgagor made without such consent shall be void, and (iii) this Mortgage and all the liens, terms, covenants and conditions of this Mortgage shall extend to and cover Mortgagor's possessory rights under Section 365(h) of the Bankruptcy Code and to any claim for damages due to the rejection of the Ground Lease or other termination of the Ground Lease. In addition, Mortgagor hereby assigns irrevocably to Mortgagee, Mortgagor's rights to treat the Ground Lease as terminated pursuant to Section 365(h) of the Bankruptcy Code and to offset rents under the Ground Lease in the event any case, proceeding or other action is commenced by or against Ground Lessor under the Bankruptcy Code or any comparable federal or state statute or law, provided that Mortgagee shall not exercise such rights and shall permit Mortgagor to exercise such rights with the prior written consent of Mortgagee, which consent will not be unreasonably withheld, delayed, or conditioned, unless an Event of Default exists.

(b) Mortgagor hereby assigns to Mortgagee, Mortgagor's right to reject the Ground Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Mortgagor under the Bankruptcy Code or comparable federal or state statute or law, provided the Mortgagee shall not exercise such right, and shall permit Mortgagor to exercise such right with the prior written consent of Mortgagee, which consent will not be unreasonably withheld, delayed, or conditioned, unless an Event of Default exists. Further, if Mortgagor shall desire to so reject the Ground Lease, Mortgagor shall assign its interest in the Ground Lease to Mortgagee in lieu of rejecting the Ground Lease as described above, upon receipt by Mortgagor of written request from Mortgagee together with Mortgagee's agreement to cure any existing defaults of Mortgagor under the Ground Lease.

(c) Mortgagor hereby assigns to Mortgagee Mortgagor's right to seek an extension of the 60-day period within which Mortgagor must accept or reject a Ground Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Mortgagor under the Bankruptcy Code or comparable federal or state statute or law, provided Mortgagee shall not exercise such right, and shall permit Mortgagor to exercise such right with the prior written consent of Mortgagee, which consent will not be unreasonably withheld, delayed, or conditioned, unless an Event of Default exists. Further, if Mortgagor shall desire to so reject a Ground Lease, Mortgagor shall assign its interest in the Ground Lease to Mortgagee in lieu of rejecting the Ground Lease as described above, upon receipt by Mortgagor of written request from Mortgagee together with Mortgagee's agreement to cure any existing defaults of Mortgagor under the Ground Lease.

(d) Mortgagor hereby agrees that if the Ground Lease is terminated for any reason by the rejection or disaffirmance of a Ground Lease pursuant to the Bankruptcy Code or any other law affecting creditor's rights, any property not removed by Mortgagor as permitted or required by the subject Ground Lease shall, at the option of Mortgagee, be deemed abandoned by Mortgagor, provided that Mortgagee may remove any such property required to be removed by Mortgagor pursuant to the Ground Lease and all costs and expenses associated with such removal shall be paid by Mortgagor within ten (10) days after receipt by Mortgagor of an invoice for such removal costs and expenses.

57. Cross-Collateralization and Cross-Default.

(a) Reference is hereby made to those certain deeds of trust and mortgages identified on Exhibits B-1 through B-12 attached hereto (the "Other Security Instruments") dated the same date as this Mortgage, executed by the persons named on said Exhibits B-1 through B-12 as having executed such Other Security Instruments (the "Other Debtors"), all of which Other Security Instruments secure the Debt and Obligations defined in this Mortgage. The Other Security Instruments cover those certain tracts or parcels of land or the leasehold estates therein more particularly described on Exhibits B-1 through B-12 and the improvements located thereon. All of the real and personal property defined as the "Trust Property" or the "Mortgaged Property," as the case may be, in the Other Security Instruments (referred to in this Mortgage as the "Other Properties") also serve as security for the payment of all of the Debt and Obligations under this Mortgage, and all of the Mortgaged Property hereunder also serves as security for the payment of all of the Debt and Obligations of the Other Security Instruments.

(b) The Other Security Instruments are hereby cross-defaulted with this Mortgage so that any event defined as an "Event of Default" in any of the Other Security Instruments will, at Mortgagee's sole and absolute discretion, constitute an Event of Default under this Mortgage. An Event of Default under this Mortgage will, at the sole and absolute discretion of the holder of all or any of the Other Security Instruments, be deemed an Event of Default under all or any of the Other Security Instruments.

(c) Notwithstanding any provision of this Mortgage or any of the other Loan Documents to the contrary, Mortgagee may, at any time in its sole and absolute discretion and without any prior notice to Mortgagor, execute and file for record in the official records of the county of the State where the Premises are located an instrument that modifies this Mortgage for the sole purpose of terminating and making void all of the terms and provisions of this Paragraph.

(d) Mortgagor, the Other Debtors, and Mortgagee have executed a certain Cross-Collateralization and Cross-Default Agreement (the "Cross Agreement") of even date herewith that memorializes the terms of this Paragraph. Contemporaneously with the release of the lien of this Mortgage by Mortgagee, Mortgagee shall execute and deliver (at Mortgagor's expense) a recordable instrument terminating the Cross Agreement with respect to the Mortgaged Property.

58. **Annual Budgets.**

(a) As used herein, the following terms have the meanings ascribed to them:

(i) **“Adjusted NOI”** means Total NOI less all Allocated NOI, if any, attributable to Properties that as of the date in question have been released from the liens of the Security Instruments.

(ii) **“Allocated NOI”** means the applicable amount set forth across from the names of the Borrower and Property to which such sum is attributed on the NOI Schedule (herein so called) to that certain NOI Schedule Agreement (herein so called) of even date herewith between Borrowers and Mortgagee.

(iii) **“Annual Budget”** means a capital and operating expenditure budget for the Premises and Improvements prepared by or on behalf of Mortgagor and specifying amounts sufficient to operate and maintain the Premises and Improvements at a standard at least equal to that maintained on the Closing Date.

(iv) **“Approved Annual Budget”** has the meaning set forth in Subparagraph (b) below.

(v) **“Budgeted Capital Expenditures”** means, with respect to any calendar month, (A) an amount equal to the Capital Expenditures for such calendar month in the then-applicable Approved Annual Budget, or (B) such greater amount as shall equal Mortgagor’s actual Capital Expenditures for such month, except that during the continuance of a Sweep Period (defined below) such greater amount may in no event exceed one hundred five percent (105%) of the amount specified in clause (A), with no individual budget line item exceeding one hundred ten percent (110%) of the amount set forth in the then-applicable Approved Annual Budget with respect to such line item for such month, in each case without the prior written consent of Mortgagee, which consent will not be unreasonably withheld, delayed, or conditioned.

(vi) **“Budgeted Operating Expenses”** means, with respect to any calendar month, (A) an amount equal to the Operating Expenses for such calendar month in the then-applicable Approved Annual Budget, or (B) such greater amount as shall equal Mortgagor’s actual Operating Expenses for such month, except that during the continuance of a Sweep Period such greater amount may in no event exceed one hundred five percent (105%) of the amount specified in clause (A), with no individual budget line item exceeding one hundred ten percent (110%) of the amount set forth in the then-applicable Approved Annual Budget with respect to such line item for such month, in each case without the prior written consent of Mortgagee, not to be unreasonably withheld, delayed, or conditioned.

(vii) **“Capital Expenditure”** means hard and soft costs incurred by Mortgagor with respect to replacements and capital repairs made to the Premises and Improvements (including repairs to, and replacements of, structural components, roofs, building systems, parking garages and parking lots), in each case to the extent capitalized in accordance with GAAP.

(viii) **“Fiscal Year”** means the twelve (12) month period ending on December 31 of each year, or such other fiscal year of Mortgagor as Mortgagor may select from time to time with the prior consent of Mortgagee, such consent not to be unreasonably withheld, delayed or conditioned.

(ix) **“Gross Operating Expenses”** means the aggregate amount of Operating Expenses of Borrowers from all of the Properties.

(x) **“Gross Operating Income”** means the aggregate amount of Operating Income of Borrowers from the Properties.

(xi) **“Net Operating Income”** means, on an annualized basis, the positive difference, if any, between Gross Operating Income less Gross Operating Expenses, calculated by Mortgagee using in all material respects the same methodology and criteria as was used by Mortgagee in determining that as of the date hereof such positive difference was equal to Total NOI.

(xii) **“Operating Expenses”** means, for any period, all operating, renting, administrative, management, legal, and other ordinary expenses of Mortgagor for the Premises and Improvements during such period, determined in accordance with sound accounting principles consistently applied; provided, however, that such expenses shall not include (A) depreciation, amortization, or other noncash items (other than expenses that are due and payable but not yet paid), (B) interest, principal, or any other sums due and owing with respect to the Loan, (C) income taxes or other taxes in the nature of income taxes, (D) Capital Expenditures, (E) equity distributions, or (F) charges incurred by Mortgagor to an Affiliate of Mortgagor representing an allocated portion of salaries of paid to central administrative staff employed by the Affiliate who perform services for Mortgagor.

(xiii) **“Operating Income”** means, for any period, all operating income of Mortgagor from the Premises and Improvements during such period, determined in accordance with sound accounting principles consistently applied (but without straight-lining of rents), other than (A) proceeds of insurance or an Award (but Operating Income will include rental loss insurance proceeds to the extent allocable to such period), (B) any revenue attributable to a Lease to the extent it is paid more than thirty (30) days prior to the due date, (C) any interest income from any source, (D) any repayments received from any third party of principal loaned or advanced to such third party by Mortgagor, (E) any proceeds

resulting from the Transfer of all or any portion of the Premises and Improvements, (F) sales, use and occupancy or other taxes on receipts required to be accounted for by Mortgagor to any governmental authority, (vii) Cancellation Payments, and (viii) any other extraordinary or non-recurring items. Operating Income for any period shall also include rent received during such period for space leased pursuant to a so-called 'master lease' or 'burn-off master lease.'

(xiv) "**Total NOI**" means (on an annualized basis) the amount described as "Total NOI as of May 31, 2006" on the NOI Schedule.

(b) Mortgagor has previously delivered to Mortgagee the Annual Budget for the Property for the 2006 Fiscal Year. At least forty-five (45) days prior to the commencement of each subsequent Fiscal Year during the term of the Loan, Mortgagor shall deliver to Mortgagee for informational purposes only an Annual Budget for the Property for the ensuing Fiscal Year and, promptly after preparation thereof, any subsequent revisions to the Annual Budget. During the continuance of any Sweep Period or Event of Default, such Annual Budget and any such revisions shall be subject to Mortgagee's approval (the Annual Budget, as so approved, the "Approved Annual Budget"), such approval not to be unreasonably withheld, delayed or conditioned; provided, however, that Mortgagor shall not amend any Annual Budget more than once in any 60-day period. In those instances when Mortgagor is obligated to submit an Annual Budget or revisions thereto to Mortgagee for approval, the same shall be deemed approved if Mortgagee has not notified Mortgagor of its disapproval within fifteen (15) business days of its receipt of such request, provided that such request is accompanied by a separate notice addressed to Mortgagee containing the following statement printed in bold font and all uppercase letters: "**REQUEST FOR BUDGET APPROVAL: IF LENDER DOES NOT DISAPPROVE THE MATTER DESCRIBED IN THIS PACKAGE WITHIN FIFTEEN (15) BUSINESS DAYS OF ITS RECEIPT, SUCH MATTER SHALL BE DEEMED APPROVED.**" In that event that any Annual Budget that requires Mortgagee approval is disapproved, then the Approved Annual Budget in effect as of the date of such disapproval shall continue to be the effective Approved Annual Budget until and unless a new Annual Budget is approved.

(c) During the continuance of a Sweep Period or Event of Default, Mortgagor shall not perform or contract to perform any Capital Expenditures that are not consistent with the Budgeted Capital Expenditures.

59. Cash Management Arrangements.

(a) Contemporaneously with the closing of the Loan, Borrowers, Property Manager, Bank of America, N.A. (as Clearing Bank), LaSalle Bank National Association (as Deposit Bank and together with Clearing Bank the "Cash Management Banks"), and Mortgagee have executed that certain Cash Management Agreement of even date herewith. The Cash Management Agreement shall be a Loan Document for all purposes under the Note, this Mortgage and the other Loan Documents. The fees and expenses of

the Cash Management Banks shall be paid by Borrowers in accordance with the terms of the Cash Management Agreement. Mortgagor hereby pledges to Mortgagee any and all monies now or hereafter held pursuant to the Cash Management Agreement as additional security for the Debt. Whenever an Event of Default exists, Mortgagee may apply any sums then held pursuant to the Cash Management Agreement to the payment of the Debt in any order in its sole discretion. Terms used in this Paragraph with initial capitalized letters but not defined in this Mortgage shall have the meanings given to them in the Cash Management Agreement.

(b) As of the date hereof, Borrowers have established and hereafter shall maintain with Clearing Bank an account into which all income from the Properties will be deposited (the "Clearing Account").

(c) Notwithstanding any other term or provision of this Mortgage to the contrary, from and after the date hereof, Mortgagor shall deposit and cause to be deposited all Rents and all other income collected from the operations of the Premises and Improvements into the Clearing Account.

(d) Mortgagor covenants and agrees with Mortgagee that promptly following the date hereof Mortgagor shall give or cause to be given written notice to all of the tenants under Leases covering any portion of the Improvements as of the date hereof and to all tenants entering into Leases after the date hereof (existing and future such notices collectively, "Tenant Notices") to the effect that (i) all payments under such tenants' Leases shall thereafter be transmitted by them directly to the Lockbox Address set forth in the Tenant Notice and (ii) such instruction may not be rescinded unless and until such tenant receives from Mortgagor, Property Manager, or Mortgagee a copy of Mortgagee's written consent to such rescission. Mortgagor shall redeliver such notices once each month to each tenant until such time as such tenant complies therewith. At Mortgagee's request, Mortgagor or Property Manager shall send a copy of each Tenant Notice to Mortgagee. Mortgagor covenants to use all commercially reasonable efforts to cause tenants to comply with the Tenant Notices. Mortgagor covenants to cause all Rents and all other money received directly by Mortgagor or the Property Manager with respect to the Premises and Improvements (other than tenant security deposits required to be held in escrow accounts), to be deposited into the Clearing Account by the end of the first business day following Mortgagor's or the Property Manager's receipt thereof; and Mortgagor and Property Manager shall be permitted to deposit into the Clearing Account such additional amounts as Mortgagor may elect.

(e) Provided that neither an Event of Default nor a Sweep Period (defined below) exists, the Cash Management Agreement shall provide that the Clearing Bank shall remit to an account specified by Borrowers ("Borrower's Account"), at the end of each business day (or, at Mortgagor's election, on a less frequent basis), the entire amount then on deposit in the Clearing Account.

(f) **Mortgagor and Mortgagee agree that, unless and until either a Sweep Period commences or an Event of Default exists, none of the provisions of Subparagraphs (g) through (l) of this Paragraph shall be operative or applicable to Mortgagor or the Loan.**

(g) Whenever an Event of Default or Sweep Period exists, the Clearing Bank will be directed to transfer all funds on deposit in the Clearing Account to the Deposit Bank for deposit into the Deposit Account provided for in the Cash Management Agreement.

(h) As used herein, the following terms have the meaning given to them:

(i) **"Floor Amount"** means, on an annualized basis at the time in question, eighty-five percent (85%) of Adjusted NOI (defined in Paragraph 58(a)(i) above).

(ii) **"Quarter"** means each three (3) calendar month period ending on March 31, June 30, September 30 and December 31 of each year.

(iii) **"Sweep Period"** means, subject to Subparagraph (k) below, the period commencing as of the first (1st) day of the Quarter within which it is determined in accordance with the terms hereof that Net Operating Income on an annualized basis for the immediately preceding Quarter was less than the Floor Amount on an annualized basis and terminating as of the last day of the second (2nd) of any two (2) consecutive Quarters thereafter during each of which Quarter Net Operating Income was equal to or greater than the Floor Amount on an annualized basis.

(i) The Cash Management Agreement shall provide that all funds on deposit in the Deposit Account (provided no Event of Default exists) shall, to the extent of funds on deposit in the Deposit Account, be transferred as follows

(i) first, to the Deposit Bank's Fee Subaccount in the amount of the fees then due and payable to the Deposit Bank under the Cash Management Agreement;

(ii) next, to, respectively, the Ground Lease Subaccount (if applicable), Monthly Payment Subaccount, the Tax and Insurance Impound Subaccount, and the Replacement Escrow Fund Subaccount, for the benefit of Mortgagee, in amounts equal to, respectively, the ground rents next due on the Ground Lease (or one-twelfth of such sum if ground rents are paid on an annual basis), the regular monthly payment of interest under the Note, and the impounds or reserves required under this Mortgage and all of the Other Security Instruments that are due and payable to Mortgagee on the next occurring regular payment date under the Note;

(iii) next, to the Operating Expenses Subaccount, for the benefit of Borrowers, in an amount equal to, and not exceeding, Budgeted Operating Expenses and Budgeted Capital Expenditures for the month in which such remittance is made;

(iv) next, to the Early Payment Subaccount in the amount of all deposits constituting Early Payments; and

(v) next, to the Reserve Subaccount in an amount of up to all of the funds remaining on deposit in the Deposit Account.

Subject to the foregoing limitations on the amount of funds available to Mortgagor, and provided an Event of Default does not exist, Mortgagor may make draws on the Operating Expenses Subaccount and Reserve's Subaccount as frequently as Mortgagor elects; provided that the amounts drawn by Mortgagor from the Operating Expenses Subaccount shall be used or applied by Mortgagor solely to pay Budgeted Operating Expenses or Budget Capital Expenditures for such month. (Mortgagor agrees that, in the event that such Budgeted Operating Expenses or Budgeted Capital Expenditures exceed the actual Operating Expenses or Capital Expenditures for such month, such excess amounts shall be remitted by Mortgagor to the Clearing Account prior to the next succeeding Payment Date).

(j) Whenever an Event of Default exists, Mortgagor shall not have any right to any funds on deposit in the Clearing Account, Deposit Account, or any Subaccount, and the Cash Management Banks will be directed not to remit any funds to the Mortgagor or any Person on behalf of or for the benefit of Mortgagor.

(k) A Sweep Period shall be deemed to have commenced on the first (1st) day of a Quarter upon the first to occur of:

(i) The earliest date on which Mortgagor has actual knowledge that Net Operating Income for the immediately preceding Quarter was less than the Floor Amount, whether as of such date Mortgagor has notified Mortgagee of the same, and Mortgagor agrees to promptly give such notice to Mortgagee; or

(ii) ten (10) days after notice from Mortgagee to Mortgagor that Mortgagor has failed to deliver to Mortgagee quarterly statements and certificate of Net Operating Income for the immediately preceding Quarter pursuant to Paragraph 17 of this Mortgage.

If Mortgagee believes in good faith that, despite Mortgagor's statement to the contrary, Net Operating for the immediately preceding Quarter was less than the Floor Amount, Mortgagee may reject Mortgagor's determination of Net Operating Income and substitute its own determination, provided that such determination is based on written documentation that Mortgagee has a reasonable basis for believing to be true and correct

in material respects and which documentation Mortgagee makes available to Mortgagor. If Mortgagee fails to give Mortgagor notice of its rejection of Mortgagor's determination of Net Operating Income not later than the fifth (5th) business day after receipt of Mortgagor's certificate of the same, then Mortgagor's determination shall be deemed final and conclusive as to the amount of Net Operating Income for the Quarter in question.

(l) As promptly as is practicable after the termination of a Sweep Period or an Event of Default ceases to exist, Mortgagee shall give each Cash Management Bank a Sweep Termination Notice or Event of Default Termination Notice, as may be applicable, and thereupon each Cash Management Bank will be authorized to disburse to Borrowers all funds on deposit with it pursuant to this Mortgage, the Other Security Instruments, and the Cash Management Agreement.

(m) Following payment of the Debt in full or a defeasance and the delivery and recording of a satisfaction, release, reconveyance or discharge of this Mortgage duly executed by Mortgagee, Mortgagee shall notify the Cash Management Banks of the same and authorize the Cash Management Banks to disburse all funds on deposit in the Clearing Account, Deposit Account, and all Subaccounts pursuant to Borrowers' instructions; provided that if prior to such date Mortgagor consummates a Prepayment and receives a release of lien of this Mortgage pursuant to Paragraph 11A or consummates a Partial Defeasance and receives a release of lien of this Mortgage pursuant to Paragraph 11B, Mortgagee shall notify the Cash Management Banks of the same and authorize the Cash Management Banks to disburse to Mortgagor pursuant to its instructions such portion, if any, of the funds on deposit in the Clearing Account, Deposit Account, and all Subaccounts that are attributable to Rents and income derived solely from the Mortgaged Property and not from any other of the Other Properties.

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ANNEX 1

Special Provisions

A. **Incorporation of Terms.** All of the terms and provisions of this Annex 1 are part and parcel of this Mortgage to which it is attached.

B. **Ground Lease.** That certain Ground Lease and Special Warranty Deed between TST Houston L.P., a Texas limited partnership and HCP Shelby MOB, LLC, a Delaware limited partnership recorded in Instrument #2006-10021 in the Probate Office of Shelby County, Alabama.

C. **Notice of Default/Purchase Option.** Mortgagee will give Ground Lessor a copy of each notice of an Event of Default given by Mortgagee to Mortgagor (a "Default Notice"). Ground Lessor will have thirty (30) days after receipt of the Default Notice to cure the subject Event of Default if Ground Lessor elects to do so and if such Event of Default may be cured by the payment of money. If on account of said Event of Default Mortgagee accelerates the Maturity Date or commences to exercise any of its other remedies under this Mortgage, Ground Lessor will have the option to purchase (the "Purchase Option") from Mortgagee (without recourse) the portion of the Loan attributable to the Mortgaged Property for a cash sum (the "Purchase Price") equal to the Allocated Balance (defined below) plus accrued unpaid interest thereon to the date (the "Closing Date") such portion of the Loan is assigned and transferred to Ground Lessor. Ground Lessor shall have thirty (30) days within which to give Mortgagee written notice of Ground Lessor's election of the Purchase Option, said thirty (30) day period to commence upon the earliest of (i) Ground Lessor's receipt of the Default Notice if in said Default Notice Mortgagee states it has accelerated the Maturity Date or commenced the exercise of any other remedy under this Mortgage or (ii) Ground Lessor's receipt of any other written notice from Mortgagee stating that it has accelerated the Maturity Date or commenced the exercise of any other remedy under this Mortgage. If Ground Lessor fails to give Mortgagee notice within the immediately foregoing thirty (30) day period of its intent to exercise the Purchase Option, the Purchase Option shall expire without any further action by or notice to any party, and Mortgagee may exercise any and all remedies under this Mortgage without further notice to Ground Lessor. If Ground Lessor exercises the Purchase Option, the Closing Date must occur within thirty (30) days after the date Ground Lessor gave Mortgagee notice of its exercise of the Purchase Option. The Closing Date (which shall be within such thirty (30) day period) and the time and place reasonably selected by Ground Lessor to consummate the Purchase Option shall be those that are stated in Ground Lessor's notice to Mortgagee of its exercise of the Purchase Option. On the Closing Date, (x) Mortgagor shall execute and deliver to Mortgagee two amended and restated promissory notes in replacement and substitution, but not in payment or satisfaction, of the Note (the "Original Note"), one such new note (the "Mortgagee's Note") shall be in the stated principal sum of the outstanding principal balance of the Original Note on the Closing Date less the Allocated Balance and the other such note (the "Ground Lessor's Note") shall be in the stated principal sum of the Purchase Price, and each such promissory note shall otherwise be in form

and substance as the Original Note, and (y) against payment by Ground Lessor to Mortgagee of the Purchase Price in immediately available good United States funds, Mortgagee shall endorse and deliver the Ground Lessor's Note to Ground Lessor and shall sell, transfer and assign the Ground Lessor's Note and this Mortgage, and all obligations, rights and duties hereunder, to Ground Lessor without recourse, representation or warranty (except for warranty of title to the Ground Lessor's Note and this Mortgage) pursuant to an assignment document reasonably acceptable to Mortgagee and Ground Lessor. Each of Mortgagee and Ground Lessor shall pay its own costs and expenses incurred in connection with the closing of the Purchase Option. As used in this Paragraph, the term "Allocated Loan Amount" means an amount equal to (A) \$9,300,000.00 less (B) the entire amounts, if any, of any Involuntary Prepayments or any other prepayments received by Mortgagee in connection with the Premises or Improvements and which Mortgagee has applied to the principal balance of the Original Note. In calculating the Allocated Loan Amount hereunder, Mortgagee shall not include any Involuntary Prepayments or any other prepayments received from any of the Other Debtors or received by Mortgagee with respect to any of the Other Properties described in the Other Security Instruments. The terms of this Paragraph are solely for the benefit of Mortgagee and Ground Lessor. There are no third party beneficiaries of this Paragraph, including, without limitation, Mortgagor. All reasonable costs and expenses incurred by Mortgagee in performance of its obligations under this Paragraph shall be reimbursed to Mortgagee by Mortgagor promptly following written demand for the same.

D. **Special State Provisions.** In the event of any inconsistencies between the terms and conditions of any other Paragraph of this Mortgage with applicable law or with this Paragraph D of this Mortgage, the terms and conditions of this Paragraph D shall control and be binding.

If an Event of Default exists, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, to sell the Mortgaged Property (or such part or parts thereof as the Mortgagee may from time to time elect to sell) under the power of sale which is hereby given to the Mortgagee, at public outcry, to the highest bidder for cash (or cash equivalents acceptable to Mortgagee to the extent permitted by applicable law), at the front or main door of the courthouse of the county in which the Premises to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Mortgaged Property to be sold, by publication in some newspaper published in the county or counties in which the Premises to be sold is located. If there is Premises to be sold in more than one county, publication shall be made in all counties where the Premises to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. The Mortgagee may bid at any sale held under this Mortgage and may purchase the Mortgaged Property,

or any part thereof, if the highest bidder therefor. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. At any sale all or any part of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, and the proceeds of any such sale en masse shall be accounted for in one account without distinction between the items included therein and without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case the 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 the Debt shall have been paid in full and all Obligations satisfied and this Mortgage shall have been terminated as provided herein. To the extent permitted by applicable law, the Mortgagor hereby authorizes and empowers the Mortgagee or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto. Mortgagee may postpone the sale of all or any part of the Mortgaged Property by public announcement at such time and place of sale, and from time to time after any such postponement may postpone such sale by public announcement at the time fixed by the preceding postponement. Any person, including Mortgagee, may purchase at such sale, and any bid by Mortgagee may be, in whole or in part, in the form of cancellation of all or any part of the Debt. The Mortgagee shall also have the option to proceed with foreclosure, either through the courts or by power of sale as provided for in this Mortgage without declaring the whole Debt due and any such sale may be made subject to the unmatured part of the Debt, and such sale, if so made, shall not affect the unmatured part of the Debt, but as to such unmatured part of the Debt this Mortgage shall remain in full force and effect as though no sale had been made under this provision. Several sales may be made hereunder without exhausting the right of sale for any remaining part of the Debt, whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Mortgaged Property for any matured part of the Debt without exhausting the power of foreclosure and the power to sell the Mortgaged Property for any other part of the Debt, whether matured at the time or subsequently maturing. In case of any sale of the Mortgaged Property as authorized by this Mortgage, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Debt or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as rebuttably presumptive evidence that the facts so stated or recited are true.

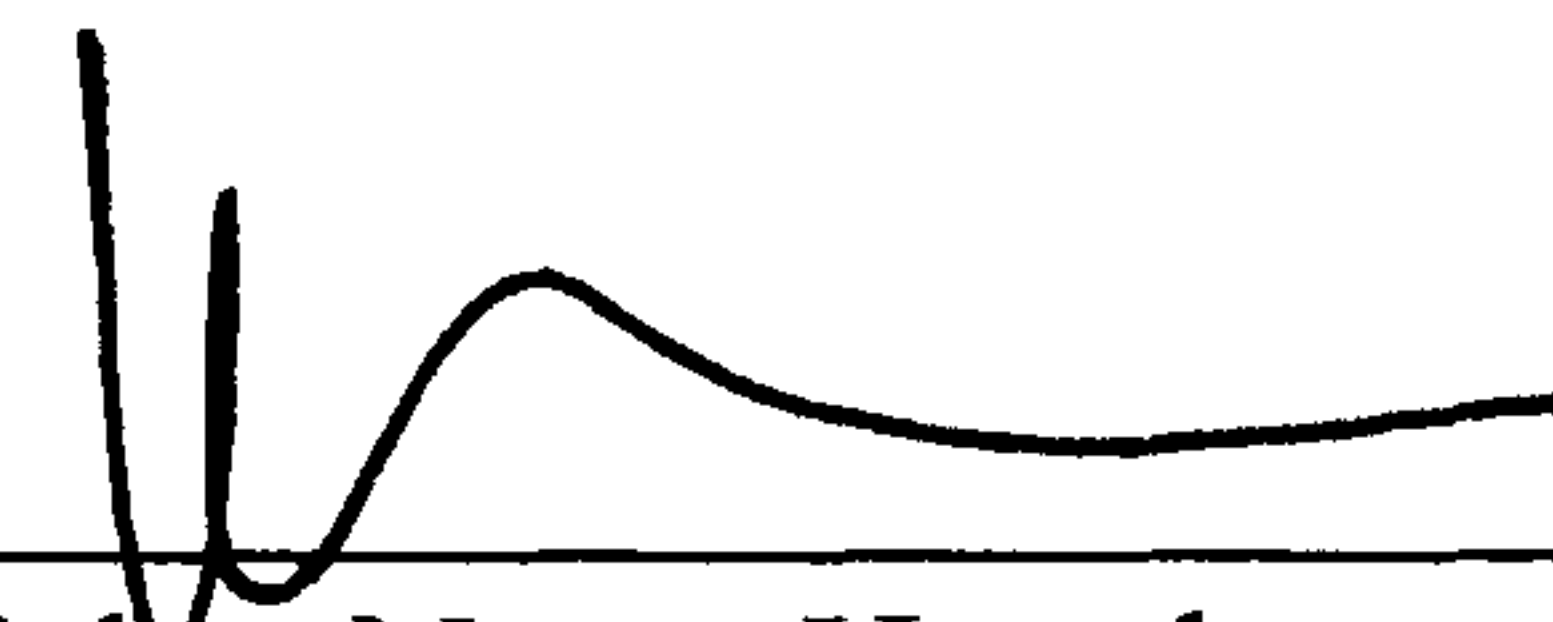
The remainder of this page is left blank. The signature page(s) follow.

EXECUTED on the date set forth in the acknowledgment below, to be effective on and as of the date first above written.

MORTGAGOR:

HCP SHELBY MOB, LLC,
a Delaware limited liability company

By: HCP Birmingham SPE Manager, LLC,
a Delaware limited liability company,
their Managing Member

By: 
Talya Nevo-Hacohen,
Senior Vice President

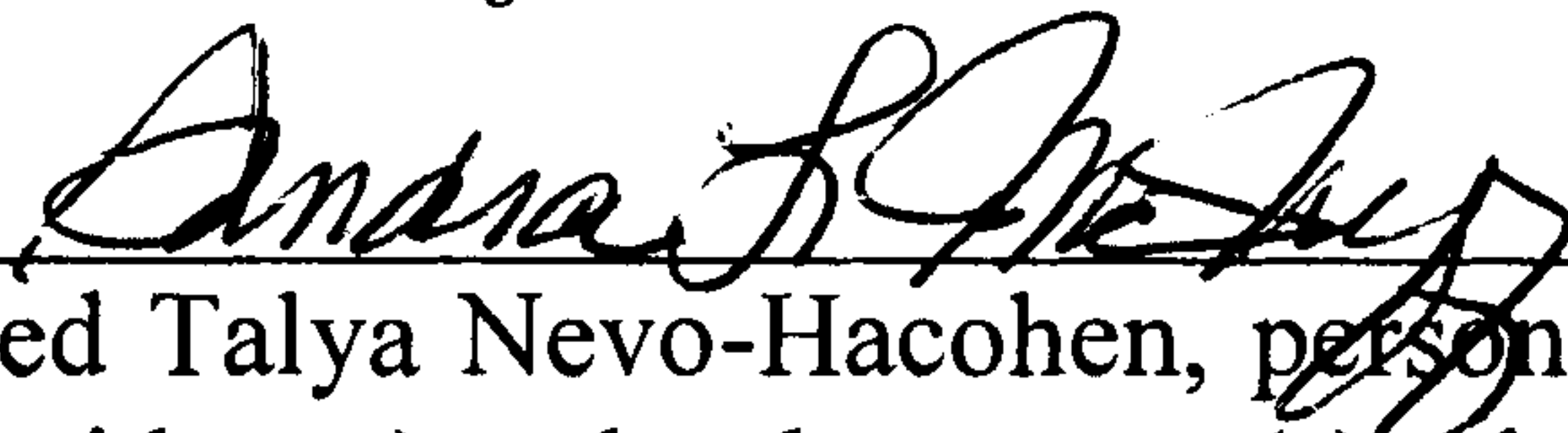

20061113000554350 114/143 \$438.00
Shelby Cnty Judge of Probate, AL
11/13/2006 12:12:54PM FILED/CERT

ACKNOWLEDGMENT

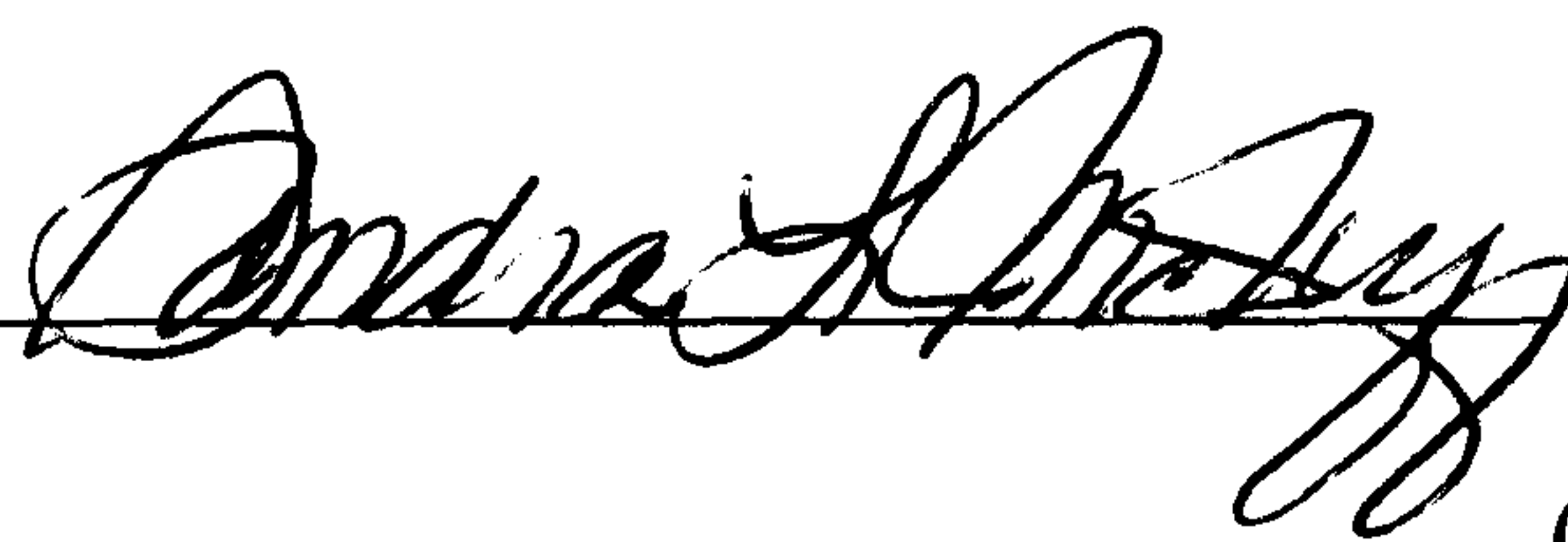
STATE OF CALIFORNIA

§
§ ss.
§

COUNTY OF ORANGE

On May 23 2006, before me,  (here insert name and title of the officer), personally appeared Talya Nevo-Hacohen, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature:  (SEAL)

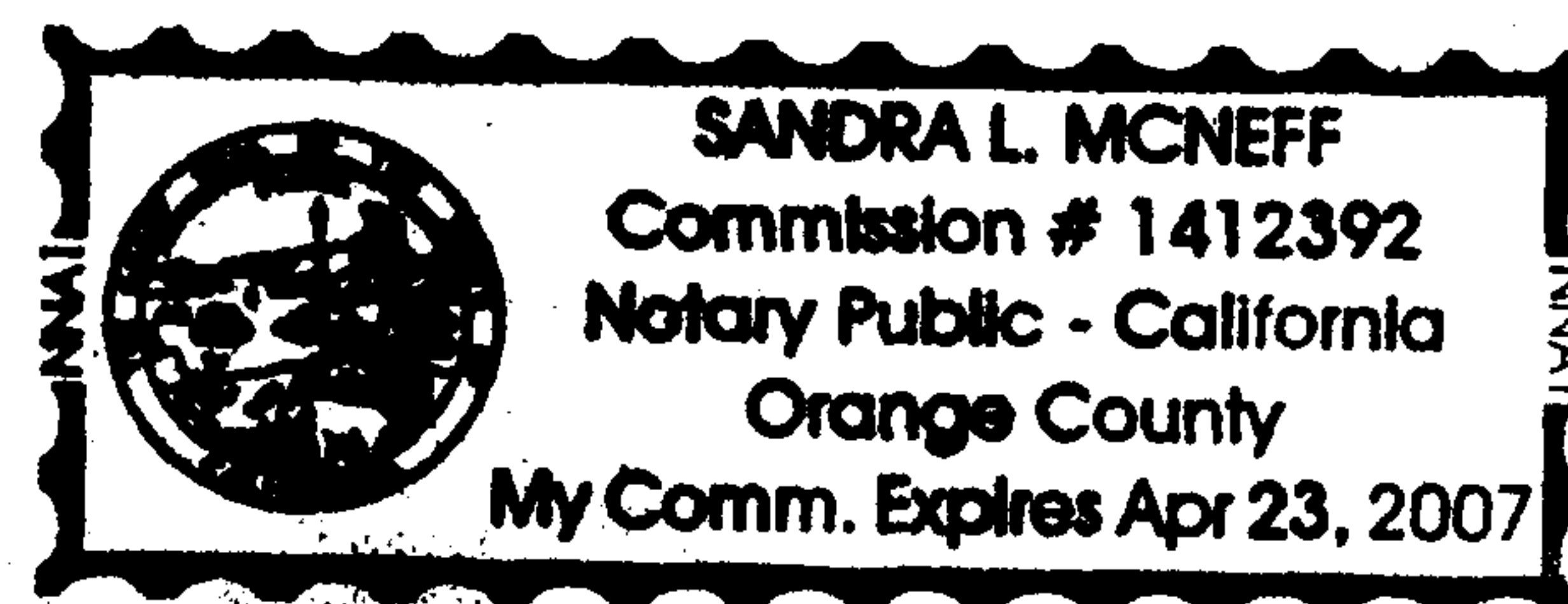


EXHIBIT A

LEGAL DESCRIPTION

Ground Lease: A parcel of land situated in Shelby County, Alabama, being the same parcel as set out in that certain Assignment and Assumption of Tenant's Interest in Ground Lease and Special Warranty Deed between TST Houston L.P., a Texas limited partnership and HCP Shelby MOB, LLC, a Delaware limited partnership recorded in Instrument #2006-10021 in the Probate Office of Shelby County, Alabama.

liability company

Commence at the Northwest corner of the Southwest quarter of the Northwest quarter of Section 36, Township 20 South, Range 3 West and run in an Easterly direction along the North line of said quarter-quarter line a distance of 316.16 feet to a point; thence deflect 88 degrees 34 minutes 47 seconds and run to the right and in a Southerly direction a distance of 262.86 feet to a point; thence deflect 43 degrees 11 minutes 19 seconds and run to the left and in a South-Easterly direction a distance of 86.47 feet to the point of beginning of the herein described parcel; thence deflect 50 degrees 35 minutes 59 seconds and run to the right and in a Southerly direction a distance of 120.67 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds and run to the right and in a Westerly direction a distance of 184.00 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds and run to the right and in a Northerly direction a distance of 120.67 feet to a point; thence turn an angle of 90 degrees 00 minutes 00 seconds and run to the right and in an Easterly direction a distance of 184.00 feet to the point of beginning of the herein described parcel. Situated in Shelby County, Alabama.

Also the following non-exclusive easements as set out in Access, Ingress, Parking and Utility Easements and Restrictions Agreement in Instrument #2002-20925

ACCESS EASEMENT NO. 1

Commence at the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of Section 36, Township 20 South, Range 3 West, Shelby County, Alabama and run in a Westerly direction along the bearing of the North line of said 1/4-1/4 Section a distance of 14.33 feet to a point on a curve to the left having a central angle of 2 degrees 37 minutes 54 seconds and a radius of 5629.58 feet, said point also being on the Easterly right of way line of U.S. Highway 31; thence deflect 80 degrees 09 minutes 10 seconds to the left to the tangent of said curve and run in a Southerly direction along the arc of said curve and right of way a distance of 258.58 feet to the point of beginning of the herein described access easement; thence deflect 95 degrees 08 minutes 59 seconds from the tangent of said curve and run to the left in a Northeasterly direction a distance of 147.08 feet to a point; thence turn an interior angle of 180 degrees 36 minutes 31 seconds and run in an Easterly direction a distance of 227.72 feet to a point; thence turn an interior angle of 85 degrees 15 minutes 31 seconds and run in a Southerly direction a distance of 56.71 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run in a Westerly direction a distance of 60.00 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run in a Northerly direction a distance of 20.63 feet to a

point; thence turn an interior angle of 274 degrees 44 minutes 29 seconds and run in a Westerly direction a distance of 104.19 feet to a point; thence turn an interior angle of 175 degrees 24 minutes 19 seconds and run in a Northwesterly direction a distance of 84.96 feet to a point; thence turn an interior angle of 270 degrees 00 minutes 00 seconds and run in a Southeasterly direction a distance of 244.23 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run in a Southwesterly direction a distance of 87.87 feet to a point; thence turn an interior angle of 135 degrees 00 minutes 00 seconds and run in a Northwesterly direction a distance of 54.41 feet to a point, said point being on the Easterly right of way line of U.S. Highway 31; thence turn an interior angle of 135 degrees 03 minutes 20 seconds and run in a Northerly direction along said right of way a distance of 101.81 feet to a point on a curve to the right, having a central angle of 1 degree 13 minutes 08 seconds and a radius of 5629.58 feet; thence continue along the arc of said curve and said right of way a distance of 119.77 feet to the point of beginning of said easement, situated in Shelby County, Alabama.

ACCESS EASEMENT NO. 2 (Walkway)

Commence at the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of Section 36, Township 20 South, Range 3 West, Shelby County, Alabama, and run in an Easterly direction along the North line of said 1/4-1/4 Section a distance of 316.16 feet to a point; thence deflect 78 degrees 14 minutes 10 seconds to the right and run in a Southeasterly direction a distance of 331.53 feet to a point; thence deflect 17 degrees 41 minutes 19 seconds to the right and run in a Southerly direction a distance of 115.0 feet to a point; thence deflect 90 degrees 00 minutes 00 seconds to the right and run in a Westerly direction a distance of 95.48 feet to the Point of Beginning of the herein described access easement; thence deflect 90 degrees 00 minutes 00 seconds to the left and run in a Southerly direction a distance of 31.48 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run in a Westerly direction a distance of 15.00 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run in a Northerly direction a distance of 31.48 feet to a point; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run in an Easterly direction a distance of 15.00 feet to the Point of Beginning of the herein described easement. Shelby County, Alabama.

Sanitary Sewer Easement

Commence at the Northwest corner of the Southwest quarter of the Northwest quarter of Section 36, Township 20 South, Range 3 West and run in a Westerly direction a distance of 14.33 feet to a point on a curve to the left having a central angle of 3 degrees 51 minutes 02 seconds and a radius of 5629.58 feet, said point also being on the Easterly right-of-way line of U.S. Highway 31; thence deflect 80 degrees 09 minutes 10 seconds to the left to the tangent of said curve and run in a Southerly direction along the arc of said curve and said right of way a distance of 378.35 feet to a point; thence continue on the tangent of said curve and said right of way a distance of 135.11 feet to the Point of Beginning of a 10 foot Sanitary Sewer Easement, lying 5 feet each side of, parallel to and abutting the following described centerline: thence deflect 95 degrees 37 minutes 52 seconds to the left and run in a Northeasterly direction a distance of 241.85 feet to a point; thence deflect 84 degrees 10 minutes 00 seconds to the left and run in a Northerly

direction a distance of 84.57 feet to a point; thence deflect 89 degrees 51 minutes 56 seconds to the right and run in an Easterly direction a distance of 128.00 feet to the endpoint of said easement, Shelby County, Alabama.

GAS AND WATER LINE EASEMENT

Commence at the Northwest corner of the Southwest quarter of the Northwest quarter of Section 36, Township 20 South, Range 3 West and run in a Westerly direction a distance of 14.33 feet to a point on a curve to the left having a central angle of 3 degrees 09 minutes 31 seconds and a radius of 5629.58 feet, said point also being on the Easterly right of way of U.S. Highway 31; thence deflect 80 degrees 09 minutes 10 seconds to the left to the tangent of said curve and run along the arc of said curve and right of way in a Southerly direction a distance of 310.35 feet to the Point of Beginning of the centerline of a 20 foot easement lying 10 feet each side of, parallel to and abutting the following described line:

Thence deflect 90 degrees 00 minutes 00 seconds from the tangent of the last described curve and run in an Easterly direction a distance of 42.89 feet to a point; thence deflect 64 degrees 43 minutes 38 seconds to the left and in a Northeasterly direction a distance of 45.19 feet to a point; thence deflect 59 degrees 14 minutes 55 seconds to the right and run in an Easterly direction a distance of 379.07 feet to a point; thence deflect 94 degrees 26 minutes 20 seconds to the right and run in a Southerly direction a distance of 39.55 feet to the end point of said easement, Shelby County, Alabama.

STORM SEWER EASEMENT

Commence at the Northwest corner of the Southwest quarter of the Northwest quarter of Section 36, Township 20 South, Range 3 West and run in a Westerly direction a distance of 14.33 feet to a point on a curve to the left having a central angle of 3 degrees 06 minutes 02 seconds and a radius of 5629.58 feet, said point also being on the Easterly right-of-way line of U.S. Highway 31; thence deflect 80 degrees 09 minutes 10 seconds to the left to the tangent of said curve and run in a Southerly direction along the arc of said curve and said right of way a distance of 304.65 feet to the Point of Beginning of a 10 foot Storm Sewer Easement, lying 5 feet each side of, parallel to and abutting the following described centerline; thence deflect 62 degrees 15 minutes 23 seconds to the left and run in an Easterly direction a distance of 256.00 feet to a point; thence deflect 27 degrees 32 minutes 41 seconds to the left and run in a Southeasterly direction a distance of 68.03 feet to a point; thence deflect 90 degrees 00 minutes 00 seconds to the left and run in a Northerly direction a distance of 21.32 feet to the Endpoint of said easement, Shelby County, Alabama.

All paved parking spaces located on the Hospital Campus within 400 feet of the insured tract, as set out in Access, Ingress, Egress, Parking and Utilities Easements and Restrictions Agreement in Instrument #2002-20925.

Exhibit B-1

Other Debtor: HCP Carolina Medical Plaza MOB, LLC, a Delaware limited liability company

Other Security Instrument: Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Other Property: Legal Description: Carolina Medical Plaza

Tax map # 11503-06-04
Tax district 1CC

ALL that certain piece, parcel, or tract of land situate, lying, and being located in Richland County, State of South Carolina, containing 2.117 acres, as shown on a plat entitled "ALTA/ACSM Land Title Survey for Johnson Development", dated September 13, 2005, prepared by Barrett Surveying Group (R. Scott Barrett, PLS, SC Registration No. 23203) and according to said plat having the following metes and bounds to wit.

Beginning at iron pin found 1" crimp top (Labeled as P.O.B) in the southeastern right of way of Farrow Road (SC Hwy #555) and the common corner of Easter Seal Society as shown on Parcel Id# R11503-06-03, thence running along the Easter Seal Society property line S 65°40'47" E a distance of 186.35 feet to an iron pin found 1/2" rebar, thence S 84°27'08" East, a distance of 242.6 feet to an iron pin found 1" crimp top at the common corner of The City of Columbia as shown in Deed Book R0381 page 2420, thence running along the property line for The City of Columbia S 24°33'52" W 218.97 feet to an iron pin found 1" open top at the common corner of Cobra Development LLC, as shown in Deed Book R0761 page 2908, and Parcel # R11503-06-09 thence running along Parcel # R11503-06-09 N 65° 21' 41" W 74.90 feet to an iron pin found 5/8" solid rod, at the common corner of parcel # R11503-06-09 and Gaslite Inn Inc., as shown in Deed Book R0371, page 2280, thence running along the Gaslite Inn Inc. property N 65°23'57" W 169.74 feet to an iron pin found 1/2" rebar, thence S 25°42'46" W 14.90 feet to an iron pin found 1/2" rebar N 68° 03' 16" W 59.19 feet to an iron pin found 1/2" rebar, thence S 31° 18' 30" W 140.04 feet to an iron pin found 1/2" rebar at the common corner of Pediatric Specialty Clinic LLC as shown in Deed Book R0660 page 1230, thence running along the Pediatric Specialty Clinic LLC property N 65°28'17" W 49.21 feet to an iron pin found 1" crimp top, thence N 64°22'25" W 98.69 feet to an iron pin found 3/4" open top bent at the southeastern r/w of Farrow Road (SC Hwy #555), thence running along the right-of-way of Farrow Road (SC Hwy #555) N 34°07'00" E 140.76 feet to an "X" in conc. Found, thence S 65°22'05" E 2.03 feet to a point, thence N 35°58'31" E 50.87 feet to a point, thence N 67°24'55" W 2.53 feet to a point, thence N 35°05'43" E 106.98 feet to a point of beginning.

Derivation: This being the same property conveyed to the within Mortgagor by deed of Carolina Med Building, LLC, dated December 19, 2005, recorded January 10, 2006, in Record Book 1141 at Page 540, in the Office of the Register of Deeds for Richland County, South Carolina

Exhibit B-2

Other Debtor: Coastal Carolina MOB, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement
and Fixture Filing

Ground Lease: The leasehold estate created by that certain lease by and between Coastal Carolina MOB, LLC and PHC-Jasper, Inc., dated March 19, 2004, and memorialized in that certain Short Form of Master Lease-Vacancy Agreement, recorded in Miscellaneous Volume 15 at Page 111, in the Office of the Clerk of Court for Jasper County, South Carolina.

Other Property: Legal Description: Coastal Carolina Medical Plaza

Tax Map # 042-00-05-046

PARCEL 2A, 0.41 Acres – LAND SUBJECT TO LEASEHOLD INTEREST

Commencing at the northeast intersection of Red Dam Road and Frontage Road (Interstate 95), said point being the Point of Commencement; thence running S53°57'54"E for a distance of 56.57' to a 5/8" rebar set; thence, N80°56'47"E for a distance of 117.52' to a concrete right-of-way marker; thence, along a curve to the right having a radius of 1489.95', an arc length of 461.00', a tangent of 232.36', a chord length of 459.16', a chord bearing of N89°58'25"E and a delta angle of 17°43'39" to a concrete right-of-way marker; thence, N08°36'21"W for a distance of 287.73' to a point; said point being the Point of Beginning, thence running the following metes and bounds, to wit:

N56°18'36"W, a distance of 32.42' to a point; thence,
S33°41'24"W, a distance of 9.17' to a point; thence,
N56°18'36"W, a distance of 5.50' to a point; thence,
S33°41'24"W, a distance of 16.66' to a point; thence,
N56°18'36"W, a distance of 43.17' to a point; thence,
N33°41'24"E, a distance of 16.66' to a point; thence,
N56°18'36"W, a distance of 5.50' to a point; thence,
N33°41'24"E, a distance of 9.17' to a point; thence,
N56°18'36"W, a distance of 32.42' to a point; thence,
N33°41'24"E, a distance of 133.50' to a point; thence,
S56°18'36"E, a distance of 30.00' to a point; thence,
N33°41'24"E, a distance of 11.00' to a point; thence,
S56°18'36"E, a distance of 59.00' to a point; thence,
S33°41'24"W, a distance of 11.00' to a point; thence,

S56°18'36"E, a distance of 30.00' to a point; thence,
S33°41'24"W, a distance of 133.50' to a point, said point being the Point of Beginning,
Said parcel contains 0.41 acres, more or less.

Declaration of Reciprocal Easements and Covenants as recorded in the Office of the Clerk of Court for Jasper County, South Carolina, in Deed Book 293 at Page 67.

Also known as:

All that certain piece, parcel, or tract of land situate, lying, and being located in Jasper County, State of South Carolina, containing 0.408 acres, as shown on a plat entitles "ALTA/ACSM Land Title Survey for Johnson Development, 1010 Medical Center Drive", dated September 30, 2005, prepared by Barrett Surveying Group (R. Scott Barrett, PLS, SC Registration No. 23203) and according to said plat having the following metes and bounds to wit:

Commencing at the northeast of Red Dam Road and Frontage Road (Interstate 95), said point being the Point of Commencement: thence running S 53°57'54" E a distance of 56.57' to a 5/8" rebar set; thence N 80°56'47"E for a distance of 117.52' to a concrete right-of-way marker; thence along a curve to the right having a radius of 1489.95, an arc length of 461.00, a tangent of 232.36, a chord length of 459.16, a chord bearing of N 89°58'25" E and a delta angle of 17°43'39" to a concrete right-of-way marker; thence N 08°36'21" W for a distance of 287.73' to a point; said point being the Point of Beginning, thence running the following metes and bounds, to wit:

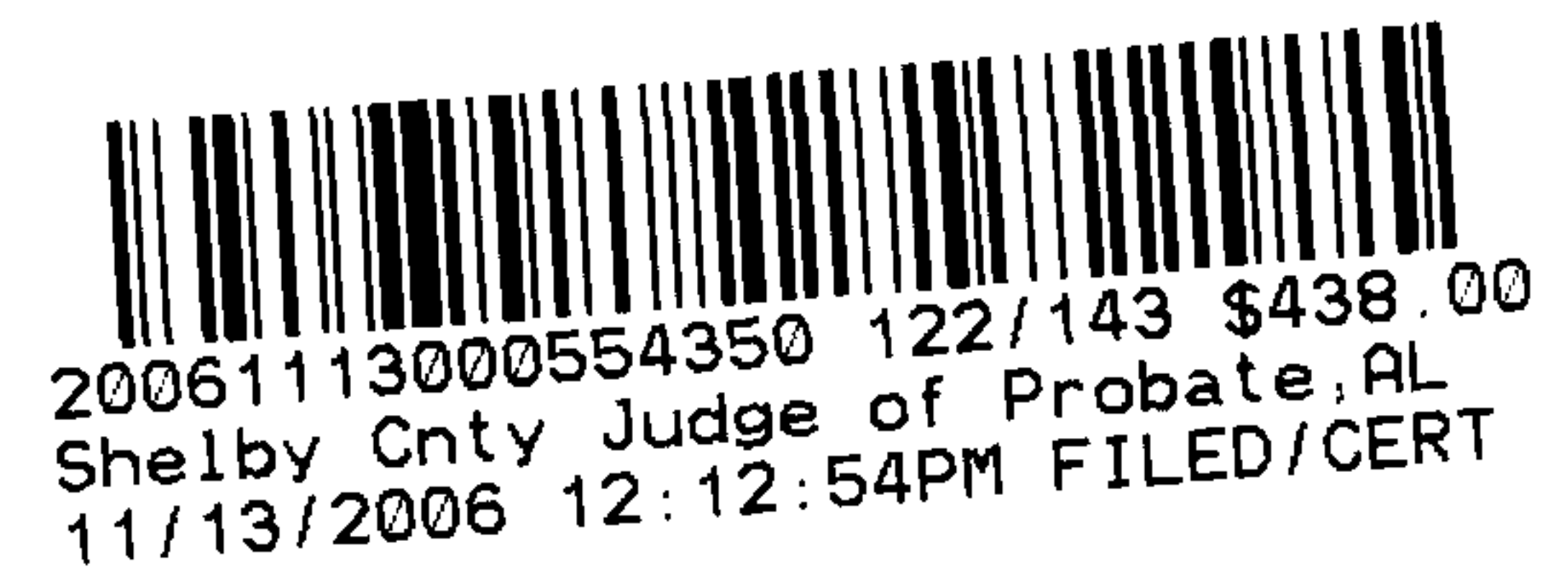
N56°18'36" W a distance of 32.42' to a point, thence S 33°41'24" W a distance of 9.17' to a point; thence N 56°18'36" W a distance of 5.50' to a point thence S 33°41'24" W a distance of 16.66' to a point; thence N 56°18'36" W a distance of 43.17' to a point thence N 33°41'24" E a distance of 16.66' to a point; thence N 56°18'36" W a distance of 5.50' to a point; thence N 33°41'24" E a distance of 9.17' to a point; thence N 56°18'36" W a distance of 32.42 to a point; thence N 33°41'24" E a distance of 133.50' to a point; thence S 56°18'36" E a distance of 30.00 to a point; thence N 33°41'24" E a distance of 11.00' to a point, thence S 56°18'36" E a distance of 59.00 to a point; thence S 33°41'24" W a distance of 11.00 to a point; thence S 56°18'36" E a distance of 30.00 to a point; thence S 33°41'24" W a distance of 133.50' to a point, said point being the Point of Beginning, Said parcel contains 0.41 acres, more or less.

PARCEL 2B, 28.75 Acres – LAND SUBJECT TO EASEMENTS

Beginning at the northeast intersection of Red Dam Road and Frontage Road (Interstate 95), said point being the Point of Beginning; thence running the following metes and bounds to wit:

N08°57'54"W a distance of 759.89' to a concrete right-of-way marker; thence,
Along a curve to the left having a radius of 1497.47', an arc length of 375.13', a tangent of 188.55', a chord length of 374.15', a chord bearing of N16°08'29"W and a delta angle of 14°21'11" to a 5/8" rebar set; thence,

N22°11'35"E, a distance of 16.99' to a point; thence,
N19°59'02"E, a distance of 18.86' to a point; thence,
N46°23'03"E, a distance of 27.66' to a point; thence,
N68°30'38"E, a distance of 26.84' to a point; thence,
S83°38'31"E, a distance of 22.10' to a point; thence,
N77°14'51"E, a distance of 36.52' to a point; thence,
N58°48'22"E, a distance of 19.55' to a point; thence,
N38°38'56"E, a distance of 18.00' to a point; thence,
N71°56'15"E, a distance of 22.08' to a point; thence,
N73°59'06"E, a distance of 19.01' to a point; thence,
N56°38'22"E, a distance of 19.59' to a point; thence,
N48°03'15"E, a distance of 29.00' to a point; thence,
N68°25'04"E, a distance of 19.89' to a point; thence,
N87°41'22"E, a distance of 20.36' to a point; thence,
S72°59'35"E, a distance of 22.66' to a point; thence,
N51°08'01"E, a distance of 45.04' to a point; thence,
N51°51'31"E, a distance of 27.82' to a point; thence,
N70°11'49"E, a distance of 18.97' to a point; thence,
N68°40'50"E, a distance of 15.82' to a point; thence,
S87°29'06"E, a distance of 25.23' to a point; thence,
S66°27'03"E, a distance of 18.60' to a point; thence,
N86°21'50"E, a distance of 13.83' to a point; thence,
S35°19'08"E, a distance of 19.23' to a point; thence,
S48°37'34"E, a distance of 23.77' to a point; thence,
S58°48'30"E, a distance of 22.60' to a point; thence,
S46°41'46"E, a distance of 37.46' to a point; thence,
N74°19'59"E, a distance of 15.79' to a point; thence,
S81°19'14"E, a distance of 29.61' to a point; thence,
S57°10'10"E, a distance of 21.80' to a point; thence,
S24°03'38"E, a distance of 12.47' to a point; thence,
S01°10'37"E, a distance of 20.94' to a point; thence,
N40°50'59"E, a distance of 10.41' to a point; thence,
N55°07'50"E, a distance of 19.89' to a point; thence,
S86°48'11"E, a distance of 25.30' to a point; thence,
S69°35'46"E, a distance of 33.33' to a point; thence,
S51°17'40"E, a distance of 16.26' to a point; thence,
N89°41'58"E, a distance of 19.63' to a point; thence,
N54°09'31"E, a distance of 35.98' to a point; thence,
S74°20'35"E, a distance of 10.15' to a point; thence,
S15°11'35"E, a distance of 23.07' to a point; thence,
S32°08'16"E, a distance of 73.72' to a point; thence,
N48°20'23"E, a distance of 20.37' to a point; thence,
N01°22'53"W, a distance of 23.64' to a point; thence,
N42°53'58"E, a distance of 6.31' to a point; thence,



S64°35'13"E, a distance of 31.68' to a point; thence,
S38°39'54"E, a distance of 56.30' to a point; thence,
S30°18'46"E, a distance of 32.29' to a point; thence,
S59°32'11"E, a distance of 26.53' to a point; thence,
S66°39'32"E, a distance of 17.91' to a point; thence,
N88°59'31"E, a distance of 29.27' to a point; thence,
S67°09'40"E, a distance of 10.77' to a point; thence,
S79°57'00"E, a distance of 21.86' to a point; thence,
S83°19'31"E, a distance of 18.08' to a point; thence,
S42°12'41"E, a distance of 31.44' to a point; thence,
S76°44'31"E, a distance of 32.21' to a point; thence,
S46°54'10"E, a distance of 35.48' to a point; thence,
S00°21'30"E, a distance of 50.51' to a point; thence,
S12°18'18"E, a distance of 39.27' to a point; thence,
S29°26'13"E, a distance of 32.02' to a point; thence,
S56°31'06"E, a distance of 17.38' to a point; thence,
S66°37'37"E, a distance of 37.67' to a point; thence,
S77°50'45"E, a distance of 16.25' to a point; thence,
N62°37'36"E, a distance of 17.78' to a point; thence,
N32°31'58"E, a distance of 5.68' to a point; thence,
S07°05'01"E, a distance of 960.48' to a Union Camp concrete marker; thence,
N80°04'19"W, a distance of 16.02' to a 5/8" rebar set; thence,
N08°51'33"E, a distance of 16.55' to a concrete right-of-way marker; thence,
N81°08'27"W, a distance of 437.36' to a concrete right-of-way marker; thence,
Along a curve to the left having a 1489.95', an arc length of 461.00', a tangent of 232.36', a
chord length of 459.16', a chord bearing of S89°58'25"W and a delta angle of 17°43'39"to a
concrete right-of-way marker; thence,
S80°56'47"W, a distance of 117.52' to a 5/8" rebar set; thence,
N53°57'54"W, a distance of 56.57' to a 5/8" rebar set, said point being the Point of Beginning,
Said parcel contains 28.75 acres, more or less.

LESS AND EXCEPT

Parcel 2A, 0.41 Acres

Commencing at the northeast intersection of Red Dam Road and Frontage Road (Interstate 95),
said point being the Point of Commencement; thence running S53°57'54"E for a distance of
56.57' to a 5/8" rebar set; thence, N80°56'47"E for a distance of 117.52' to a concrete right-of-
way marker; thence, along a curve to the right having a radius of 1489.95', an arc length of
461.00', a tangent of 232.36', a chord length of 459.16', a chord bearing of N89°58'25"E and a
delta angle of 17°43'39"to a concrete right-of-way marker; thence, N08°36'21"W for a distance
of 287.73' to a point; said point being the Point of Beginning, thence running the following
metes and bounds, to wit:

N56°18'36"W, a distance of 32.42' to a point; thence,
S33°41'24"W, a distance of 9.17' to a point; thence,
N56°18'36"W, a distance of 5.50' to a point; thence,
S33°41'24"W, a distance of 16.66' to a point; thence,
N56°18'36"W, a distance of 43.17' to a point; thence,
N33°41'24"E, a distance of 16.66' to a point; thence,
N56°18'36"W, a distance of 5.50' to a point; thence,
N33°41'24"E, a distance of 9.17' to a point; thence,
N56°18'36"W, a distance of 32.42' to a point; thence,
N33°41'24"E, a distance of 133.50' to a point; thence,
S56°18'36"E, a distance of 30.00' to a point; thence,
N33°41'24"E, a distance of 11.00' to a point; thence,
S56°18'36"E, a distance of 59.00' to a point; thence,
S33°41'24"W, a distance of 11.00' to a point; thence,
S56°18'36"E, a distance of 30.00' to a point; thence,
S33°41'24"W, a distance of 133.50' to a point, said point being the Point of Beginning,
Said parcel contains 0.41 acres, more or less.

Being the same land leased to Coastal Carolina MOB, LLC by PHC-Jasper, Inc., by lease dated March 19, 2004, and by a Short Form of Ground Lease dated March 19, 2004 and recorded at Book 15, Page 102.

Fee Simple Derivation: This being the same property conveyed to Jasper Hospital, Inc. by deeds of Coastal Land Development Company a/k/a Coastal Land Development Co., dated August 2, 2002, and recorded on September 4, 2002, in Deed Book 261 at Page 243 and Deed Book 261 at Page 238, in the Office of the Clerk of Court for Jasper County, South Carolina.


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Exhibit B-3

Other Debtor: HCP Coosa MOB, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: The leasehold estate created by that certain lease by and between Baptist Health Systems, Inc. and Coosa Med Building, LLC, dated April 14, 1999, and recorded in Deed Book 719, Page 380 as amended and further amended by that certain First Amendment to Ground Lease between Sylacauga Health Care Authority, lessor and Coosa Med Building, LLC, lessee recorded April 3, 2006, in Deed Book 863, Page 306; said lease being transferred and assigned to HCP Coosa MOB, LLC by assignment and assumption of Ground Lease dated February 27, 2006 and recorded on April 3, 2006 in Deed Book 863, Page 313.

Other Property: Legal Description: Coosa Valley Medical Plaza

A part of Lots 1, 2 & 3, Block 2 according to the survey of Central Land Company's Addition C to the City of Sylacauga as recorded in Map Book 1, Page 122 in the Probate Office of Talladega County, Alabama, being more particularly described as follows:

Commence at a point located at the intersection of the Southwest corner of Lot 1, Block 2, according to the survey of Central Land Company's Addition C to the City of Sylacauga as recorded in Map Book 1, Page 122 in the Probate Office of Talladega County, Alabama and the East right-of-way margin of Douglas Avenue; thence run North 01° 37' 00" East along said right-of-way margin for a distance of 2.00 feet to a point, said point being the True Point of Beginning; thence continue North 01° 37' 00" East along said right-of-way margin for a distance of 101.17 feet to a point; thence run South 88° 23' 00" East for a distance of 192.67 feet to a point; thence run South 01° 37' 00" West for a distance of 101.17 feet to a point; thence run North 88° 23' 00" West for a distance of 192.67 feet to a point and back to the True Point of Beginning.

Together with an easement as to Parcel II:

Parcel II

A part of Lots 1 thru 5 & 8 thru 10, Block 2, according to the survey of Central Land Company's Addition C to the City of Sylacauga as recorded in Map Book 1, Page 122 in the Probate Office of Talladega County, Alabama, being more particularly described as follows:

Commence at a point located at the intersection of the Southwest corner of Lot 1, Block 2 according to the survey of Central Land Company's Addition to the City of Sylacauga as recorded in Map Book 1, Page 122 in the Probate Office of Talladega County, Alabama and the East right-of-way margin of Douglas Avenue; thence run North 01° 37' 00" East along said

right-of-way margin for a distance of 2.00 feet to a point, said point being the True Point of Beginning; thence run South 88° 23' 00" East for a distance of 192.67 feet to a point; thence run North 01° 37' 00" West for a distance of 101.17 feet to a point; thence run North 88° 23' 00" West for a distance of 192.67 feet to a point on the East right-of-way margin of Douglas Avenue thence run North 01° 37' 00" East along said right-of-way margin for a distance of 68.83 feet to a point on the South right-of-way margin of Spring Street; thence run South 88° 12' 16" East along said right-of-way margin for a distance of 350.00 feet to a point on the West right-of-way margin of Anniston Avenue; thence run South 01° 37' 00" West along said right-of-way margin for a distance of 179.00 feet to a point; thence run North 88° 12' 16" for a distance of 140.00 feet to a point; thence run South 01° 37' 00" West for a distance of 179.00 feet to a point on the North right-of-way margin of Hickory Street; thence run North 88° 12' 16" West along said right-of-way margin for a distance of 210.00 feet to a point on the East right-of-way margin of Douglas Avenue; thence run North 01° 37' 00" East along said right-of-way margin for a distance of 188.00 feet to a point and back to the point of beginning.

Exhibit B-4

Other Debtor: Cullman POB Partners I, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: The leasehold estate created by that certain lease by and between Cullman Regional Medical Center and Cullman POB Partners I, Ltd., dated March 18, 1994, and recorded in Book 429, Page 210, as amended by First Amendment to Ground Lease as recorded in Book 554, Page 832.

Other Property: Legal Description: Cullman POB 1

A tract or parcel of land being situated in the Southeast Quarter of the Northwest Quarter, Section 1, Township 10 South, Range 3 West, Cullman County, Alabama and being more particularly described as follows:

Commence at a found rebar marking the Northwest corner of the Northeast Quarter of the Northwest Quarter of said Section 1 and run South 1 deg. 28'25 West, along the West line of said Quarter Quarter a distance of 1999.99 feet; thence run South 88 deg. 05'32 East a distance of 82.19 feet to the point of curvature of a curve to the left having a central angle of 57 deg. 52'51, a radius of 300.00 feet and a chord bearing of North 62 deg. 58'03 East; thence run along the arc of said curve a distance of 303.06 to the point of tangency; thence run North 34 deg. 01 '38 East a distance of 33.95 feet to the point of beginning; thence continue North 34 deg. 01 '38 East a distance of 11.90 feet to the point of curvature of a curve to the right having a central angle of 32 deg. 54'36, a radius of 136.50 feet and a chord bearing of North 50 deg. 28'52 East; thence run along the arc of said curve a distance of 78.40 feet to the point of a compound curve to the right having a central angle of 46 deg. 25'11, a radius of 100.00 feet and a chord bearing of South 89 deg. 51'14 East; thence run along the arc of said curve a distance of 81.02 feet to the point of tangency; thence run South 66 deg. 38'34 East a distance of 13.35 feet; thence run North 77 deg. 30'00 East a distance of 153.99 feet; thence run South 35 deg. 42'02 East a distance of 91.95 feet to the point of curvature of a curve to the right having a central angle of 48 deg. 11'48, a radius of 50.00 feet and a chord bearing of South 11 deg. 36'02 East; thence run along the arc of said curve a distance of 42.06 feet to the point of tangency; thence run South 12 deg. 29'57 West a distance of 101.60 feet; thence run North 88 deg. 29'47 West a distance of 261.23 feet to the point of curvature of a curve to the right having a central angle of 38 deg. 07'53, a radius of 83.50 feet and a chord bearing of North 69 deg. 25'47 West; thence run along the arc of said curve a distance of 55.57 feet to the point of tangency; thence run North 50 deg. 21 '47 West a distance of 22.44 feet to the point of curvature of a curve to the right having a central angle of 50 deg. 21 '49, a radius of 50.00 feet and a chord bearing of North 25 deg.10'54 West; thence run along the arc of said curve a distance of 43.95 feet to the point of tangency; thence run North 0 deg. 00'00 East a distance of 48.12 feet to the point of beginning.

Together with a non-exclusive easement for access, parking and utilities as contained in that certain Easement Agreement by and between Cullman Regional Medical Center and The Medical Clinic Board of the City of Cullman-Cullman Medical Park South, dated March 4, 1994 and recorded in Book 429, Page 190.



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Exhibit B-5

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Other Debtor: Cullman POB II, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: The leasehold estate created by that certain lease by and between Cullman Regional Medical Center and Cullman POB II, LLC, dated December 18, 1996, and recorded in Book 453, Page 689, as amended by First Amendment to Ground Lease as recorded in Book 554, Page 837.

Other Property: Legal Description: Cullman POB 2

Commence at the NW corner of the NE 1/4 of the NW 1/4 of Section 1, Township 10 South, Range 3 West and proceed along the North line of said Section to the NE corner of the NE 1/4 of the NW 1/4; thence turn Southerly and proceed along the East line of the NE 1/4 of NW 1/4 a distance of 1609.9' to a point on the 1/4 line; thence turn 90° west and proceed 114.52 feet; a bearing of N 89° 49' 27" W to a point, 15' parallel to the proposed building face and the point of beginning thence proceed 110 feet N 14° 32' 51" W; thence proceed 96.5 feet, S 75° 27' 09" W, a bearing parallel to the North exterior face of the present hospital; thence proceed 41.33 feet N 14° 32' 51" W; thence proceed 58.0 feet, S 75° 27' 09" W; thence proceed 41.33 feet S 14° 32' 51" E; thence proceed 90.5 feet, S 75° 27' 09" W, thence proceed 8.12 feet, S 14° 32' 51" E; thence proceed 51.27 feet, S 75° 27' 09" W; thence proceed 15.0 feet S 14° 32' 51" E; thence proceed 10.96 feet, S 29° 30' 16" W; thence proceed 8.0 feet, S 14° 32' 51" E; thence proceed 11.75 feet, N 75° 27' 09" E; thence along a curve concave Southwesterly with a radius of 78.1 feet and an arc length 28.66 feet; thence proceed 11.75 feet S 75° 27' 09" W; thence proceed 8.0 feet S 14° 32' 51" E; thence proceed 10.28 feet S 59° 32' 51" E; thence proceed 12.29 feet S 12° 09' 31" W; thence proceed 1.75 feet, S 75° 27' 09" W; thence proceed 26.5 feet, S 14° 32' 51" E; thence proceed 204.11 feet, N 75° 27' 09" E, a bearing parallel to the south exterior face of the present hospital; thence proceed 10.25 feet N 14° 32' 51" W; thence proceed 99.78 feet, N 75° 27' 09" E to the point of beginning.

Also described as:

A tract or parcel of land being situated in the Southeast 1/4 of the Northwest 1/4, Section 1, Township 10 South, Range 3 West, Cullman County, Alabama, and being more particularly described as follows:

Commence at the NW corner of the NE 1/4 of the NW 1/4 of Section 1, Township 10 south, Range 3 West, Cullman County, Alabama; thence run along the North line of said Section to the NE corner of the NE 1/4 of the NW 1/4; thence run South 00°10'33" West along the East line of the NE 1/4 of NW 1/4 for a distance of 1609.9 feet to a point on the 1/4 line; thence run N 89° 49' 27" W for a distance of 114.52 feet to a point, said point being the True Point of Beginning;

thence run North 14°32'51" West for a distance of 110.00 feet to a point; thence run South 75°27'09" West for a distance of 96.50 feet to a point; thence run North 14°32'51" West for a distance of 41.33 feet to a point; thence run South 75°27'09" West for a distance of 58.00 feet to a point; thence run South 14°32'51" East for a distance of 41.33 feet to a point; thence run South 75°27'09" West for a distance of 90.50 feet to a point; thence run South 14°32'51" East for a distance of 8.12 feet to a point; thence run South 75°27'09" West for a distance of 51.27 feet to a point; thence run South 14°32'51" East for a distance of 15.00 feet to a point; thence run South 29°30'16" West for a distance of 10.96 feet to a point; thence run South 14°32'51" East for a distance of 8.00 feet to a point; thence run North 75°27'09" East for a distance of 11.75 feet to a point, said point being the point of a curve to the right having a radius of 78.10 feet and an arc distance of 38.66 feet; thence run along said curve to the right a chord bearing of South 14°33'36" East and a chord distance of 28.50 feet to a point; thence run South 75°27'09" West for a distance of 11.75 feet to a point; thence run South 14°32'51" East for a distance of 8.00 feet to a point; thence run South 59°32'51" East for a distance of 8.00 feet to a point; thence run South 12°09'31" West for a distance of 12.29 feet to a point; thence run South 75°27'09" West for a distance of 1.75 feet to a point; thence run South 14°32'51" East for a distance of 26.50 feet to a point; thence run North 75°27'09" East for a distance of 204.11 feet to a point; thence run North 14°32'51" West for a distance of 10.25 feet to a point; thence run North 75°27'09" East for a distance of 99.78 feet to a point and back to the True Point of beginning.

Together with a non-exclusive easement for access, parking and utilities as contained in that certain Easement Agreement by and between Cullman Regional Medical Center and The Medical Clinic Board of the City of Cullman-Cullman Medical Park South, dated January 3, 1997 and recorded in Book 454, Page 10.

Exhibit B-6


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Other Debtor: Emerald Coast MOB, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: Ground Lease Parcel as contained in the Lease and evidenced by Short Form Memorandum of Lease between Sacred Heart Hospital of Pensacola (d/b/a Sacred Heart Hospital on the Emerald Coast), a Florida not-for-profit corporation, Lessor, and Emerald Coast MOB, L.L.C., a Florida limited liability company, Lessee, as recorded in Official Records Book 2403, Page 431, and as amended by Amendment to Short Form Memorandum of Leases and Amendment to Ground Lease, recorded March 28, 2006 in Official Records Book 2713, page 2933, Public Records of Walton County, Florida.

Other Property: Legal Description: Emerald Coast Physicians' Plaza

A parcel of land lying in Section 25, Township 2 South, Range 21 West, Walton County, Florida, being more particularly described as follows:

Commence at a concrete monument found at the intersection of the South line of Lot 43, Santa Rosa Plantation Company Subdivision, as recorded in Plat Book 2, at Page 4 of the public records of Walton County, Florida with the West right of way line of Mack Bayou Road (66' R/W); thence S 02°26'05" W along said West right of way line, a distance of 820.31 feet to a point; thence N 87°35'24" W leaving said West right of way line for a distance of 135.55 feet to the Point of Beginning; thence continue N 87°35'24" W for a distance of 210.97 feet to a point; thence N 02°24'36" E for a distance of 113.24 feet to a point; thence S 87°35'24" E for a distance of 161.94 feet to a point; thence N 02°24'36" E for a distance of 37.92 feet to a point; thence S 87°42'07" E for a distance of 49.03 feet to a point; thence S 02°24'36" W for a distance of 151.26 feet to the Point of Beginning.

Together with Easement as set forth in and described as Primary Easement Parcel in Declaration of Easement as recorded in Official Records Book 2403, Page 418, and as amended by Amendment to Declaration of Easement recorded March 28, 2006 in Official Records Book 2713, page 2938, Public Records of Walton County, Florida.

Description of Primary Easement Parcel

Commence at the Intersection of the South line of Lot 43, Santa Rosa Plantation Company Subdivision of Section 25, Township 2 South, Range 21 West, Walton County, Florida with the West right of way line of Mack Bayou Road (right of way varies); thence go South 02 degrees 26 minutes 05 seconds West along the said West right of way line, a distance of 564.08 feet to the Point of Beginning; thence departing said right of way line go North 87 degrees 49 minutes 34 seconds West, a distance of 223.81 feet; thence go South 02 degrees 29 minutes 01 seconds West, a distance of 55.00 feet; thence go North 87 degrees 42 minutes 16 seconds West, a



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distance of 99.22 feet; thence go North 00 degrees 00 minutes 00 seconds East, a distance of 17.50 feet; thence go North 90 degrees 00 minutes 00 seconds West, a distance of 35.96 feet; thence go South 01 degrees 00 minutes 42 seconds East, a distance of 113.81 feet; thence go South 02 degrees 29 minutes 01 seconds West, a distance of 115.00 feet; thence go South 13 degrees 23 minutes 46 seconds West, a distance of 160.05 feet; thence go South 00 degrees 06 minutes 53 seconds West, a distance of 67.37 feet; thence go South 87 degrees 10 minutes 02 seconds East, a distance of 129.59 feet; thence go North 11 degrees 56 minutes 39 seconds East, a distance of 47.14 feet; thence go South 78 degrees 02 minutes 58 seconds East, a distance of 226.16 feet; thence go North 02 degrees 26 minutes 05 seconds East, a distance of 129.08 feet; thence go North 24 degrees 31 minutes 08 seconds East, a distance of 53.96 feet; thence go North 02 degrees 26 minutes 05 seconds East, a distance of 306.08 feet to the Point of Beginning of the parcel herein described.

Less and except the following described parcel:

A parcel of land lying in Section 25, Township 2 South, Range 21 West, Walton County, Florida, being more particularly described as follows:

Commence at a concrete monument found at the intersection of the South line of Lot 43, Santa Rosa Plantation Company Subdivision, as recorded in Plat Book 2, at Page 4 of the public records of Walton County, Florida with the West right of way line of Mack Bayou Road (66' R/W); thence S 02°26'05" W along said West right of way line, a distance of 820.31 feet to a point; thence N 87°35'24" W leaving said West right of way line for a distance of 135.55 feet to the Point of Beginning; thence continue N 87°35'24" W for a distance of 210.97 feet to a point; thence N 02°24'36" E for a distance of 113.24 feet to a point; thence S 87°35'24" E for a distance of 161.94 feet to a point; thence N 02°24'36" E for a distance of 37.92 feet to a point; thence S 87°42'07" E for a distance of 49.03 feet to a point; thence S 02°24'36" W for a distance of 151.26 feet to the Point of Beginning.

(Description of Easement Parcel)

Begin at the intersection of the South line of Lot 43, Santa Rosa Plantation Company Subdivision of Section 25, Township 2 South Range 21 West, Walton County, Florida with the West right of way line of Mack Bayou Road (66 foot right of way); thence go S 02°26'05" W along said West right of way line, a distance of 1052.64 feet; thence go N 78°02'58" W, a distance of 246.73 feet; thence go S 11°56'39" W, a distance of 353.78 feet to a point of intersection with the North right of way line of Florida State Road 30 (U.S. Highway 98 - 100 foot wide right of way); thence go N 76°13'09" W along said North right of way line, a distance of 1003.87 feet to a found 4"x4" concrete monument. Licensed business number 2372, Buchanan and Harper (found monument 2372); thence go N 02°29'01" E, a distance of 468.02 feet to a found monument 2372; thence go S 79°36'11" E, a distance of 80.77 feet to a found monument 2372; thence go N 02°29'01" E, a distance of 514.52 feet to a found monument 2372; thence go N 87°42'07" W, a distance of 80.00 feet to a found monument 2372; thence go N 02°29'01" E, a distance of 183.51 feet to a St. Joe Paper Company Monument on the South line of the aforesaid

lot 43; thence go S 87°56'15" E on said South line, a distance of 1285.08 feet to the point of beginning. Said parcel lying in Section 25, Township 2 South, Range 21 West, Walton County, Florida.

Less and except the following described parcel:

A parcel of land lying in Section 25, Township 2 South, Range 21 West, Walton County, Florida, being more particularly described as follows:

Commence at a concrete monument found at the intersection of the South line of Lot 43, Santa Rosa Plantation Company Subdivision, as recorded in Plat Book 2, at Page 4 of the public records of Walton County, Florida with the West right of way line of Mack Bayou Road (66' R/W); thence S 02°26'05" W along said West right of way line, a distance of 820.31 feet to a point; thence N 87°35'24" W leaving said West right of way line for a distance of 135.55 feet to the Point of Beginning; thence continue N 87°35'24" W for a distance of 210.97 feet to a point; thence N 02°24'36" E for a distance of 113.24 feet to a point; thence S 87°35'24" E for a distance of 161.94 feet to a point; thence N 02°24'36" E for a distance of 37.92 feet to a point; thence S 87°42'07" E for a distance of 49.03 feet to a point; thence S 02°24'36" W for a distance of 151.26 feet to the Point of Beginning.

Less and except any portion of the above-described real estate conveyed by St. Joe Paper Company to Gulf Power Company by deed dated January 10, 1993, recorded in Deed Book 122, at page 416, of the Public Records of Walton County, Florida.

Also less and except any portion of the above described real estate which has been conveyed to the State of Florida (Department of Transportation), or which has been taken by the State of Florida (Department of Transportation) by eminent domain proceedings.

Together with any and all right, title and interest, claim, easement, access, ingress or egress possessed by the St. Joe Paper Company in and to any portion of the above-described real estate conveyed by St. Joe Paper Company to Gulf Power Company by the Deed described hereinabove.

Less and except the following described parcel:

A parcel of land lying in Section 25, Township 2 South, Range 21 West, Walton County, Florida, being more particularly described as follows:

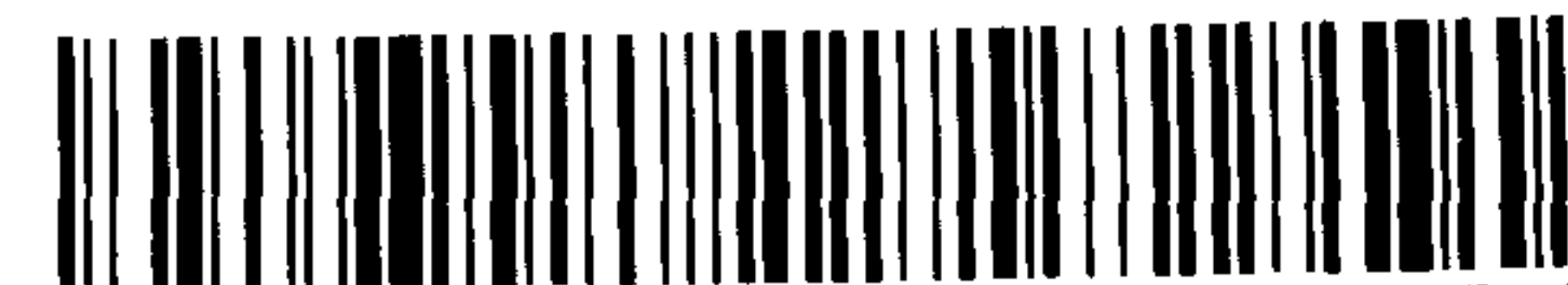
Commence at a concrete monument found at the intersection of the South line of Lot 43, Santa Rosa Plantation Company Subdivision, as recorded in Plat Book 2, Page 4, Public Records of Walton County, Florida with the West right of way line of Mack Bayou Road (66' R/W); thence South 02 degrees 26'05" West along said West right of way line, a distance of 825.31 feet to a point; thence North 87 degrees 35'24" West leaving said West right of way line for a distance of 130.55 feet to a point of beginning; thence continue North 87 degrees 35'24" West for a distance

of 220.97 feet to a point; thence North 02 degrees 24'36" East for a distance of 121.28 feet to a point; thence South 87 degrees 35'24" East for a distance of 161.94 feet to a point; thence North 02 degrees 24'36" East for a distance of 43.99 feet to a point; thence South 87 degrees 35'24" East for a distance of 59.03 feet to a point; thence South 02 degrees 24'36" West for a distance of 165.27 feet to the Point of Beginning.

Less and except any portion of the above-described real estate conveyed by St. Joe Paper Company to Gulf Power Company by deed dated January 10, 1993, recorded in Deed Book 122, at page 416, of the Public Records of Walton County, Florida.

Also less and except any portion of the above described real estate which has been conveyed to the State of Florida (Department of Transportation), or which has been taken by the State of Florida (Department of Transportation) by eminent domain proceedings.

Together with any and all right, title and interest, claim, easement, access, ingress or egress possessed by the St. Joe Paper Company in and to any portion of the above-described real estate conveyed by St. Joe Paper Company to Gulf Power Company by the Deed described hereinabove.



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Exhibit B-7

Other Debtor: HCP Family Medicine South MOB, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: The leasehold estate created by that certain lease by and between NSC 31, L.L.C., as Lessee to Brookwood Center Development Corporation, as Lessor dated October 16, 1998, filed for record October 20, 1998, in Instrument Number 1998-40834, in the Office of the Judge of Probate of Shelby County, Alabama; Assignment and Assumption of Tenant's interest in Ground Lease and Special Warranty Deed by and between NSC 31, LLC, an Alabama limited liability company and HCP Family Medicine South MOB, LLC, a Delaware limited liability company, dated January 4, 2006 and filed for record on January 10, 2006, and recorded under Instrument Number 2006011000017000 and under Instrument Number 2006011000017010.

Other Property: Legal Description: Family Medicine South

PARCEL A: (Leasehold)

A part of Lot 1, according to the Map of Pelham Professional Park as recorded in Map Book 31, page 86 in the Office of the Judge of Probate of Shelby County, Alabama located in the Southwest quarter of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

From the Southwest corner of said Southwest quarter of the Southwest quarter; thence South 89° 53' 33" East along the section line, 969.65 feet to a point on the Easterly right of way line of U.S. Highway No. 31; thence North 12° 00' 06" West along said right of way line, 428.12 feet; thence leaving said right of way run North 89° 58' 10" East, 62.48 feet; thence North 00° 01' 50" West, 9.86 feet to the point of beginning; thence North 89° 58' 10" East, 190.50 feet; thence North 00° 01' 50" West, 95.50 feet; thence South 89° 58' 10" West, 116.04 feet; thence North 37° 16' 22" West, 17.85 feet; thence South 67° 52' 18" West, 89.88 feet; thence South 49° 25' 47" East, 25.85 feet; thence South 00° 01' 50" East, 59.07 feet to the point of beginning; being situated in Shelby County, Alabama.

PARCEL B: (Appurtenant Easement)

The non-exclusive easements granted to NSC 31, L.L.C. by the Declaration of Easement Agreement dated October 16, 1998 by and between Brookwood Center Development Corporation and NSC 31, L.L.C. , recorded as Instrument Number 1998-40833 in the Probate Office, over and across the following described property:

A part of Lot 1, according to the Map of Pelham Professional Park as recorded in Map Book 31, page 86 in the Office of the Judge of Probate of Shelby County, Alabama located in the

Southwest quarter of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows: From the Southwest corner of said Southwest quarter of the Southwest quarter; thence South 89° 53' 33" East along the Section line, 969.65 feet to a point on the Easterly right of way line of U.S. Highway No. 31; thence North 12° 00' 06" West along said right of way line, 428.12 feet to the point of beginning; thence North 89° 58' 10" East, 308.75 feet; thence North 01° 39' 20" East, 127.59 feet; thence North 25° 57' 47" West, 220.98 feet to a point on the Southerly right of way of Yeager Parkway; thence Southwesterly along said right of way line on the arc of a curve concave Northwesterly, having a radius of 396.93 feet, an arc distance of 101.89 feet; thence leaving said right of way line, run South 12° 13' 36" East, 66.22 feet; thence South 77° 48' 48" West, 180.06 feet to a point on the Easterly right of way line of U.S. Highway No. 31; thence South 12° 06' 33" East, along said right of way line, 186.47 feet to the point of beginning.

LESS AND EXCEPT PARCEL "A" being more particularly described as follows:

A part of Lot 1, according to the Map of Pelham Professional Park as recorded in Map Book 31, page 86 in the Office of the Judge of Probate of Shelby County, Alabama located in the Southwest quarter of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama more particularly described as follows: From the Southwest corner of said Southwest quarter of the Southwest quarter; thence South 89° 53' 33" East along the Section line, 969.65 feet to a point on the Easterly right of way line of U.S. Highway No. 31; thence North 12° 00' 06" West along said right of way line, 428.12 feet; thence leaving said right of way run North 89° 58' 10" East, 62.48 feet; thence North 00° 01' 50" West, 9.86 feet to the point of beginning; thence North 89° 58' 10" East, 190.50 feet; thence North 00° 01' 50" West, 95.50 feet; thence South 89° 58' 10" West, 116.04 feet; thence North 37° 16' 22" West, 17.85 feet; thence South 67° 52' 18" West, 89.88 feet; thence South 49° 25' 47" East, 25.85 feet; thence South 00° 01' 50" East, 59.07 feet to the point of beginning; being situated in Shelby County, Alabama.

Exhibit B-8

Other Debtor: Kingsport MOB, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: The leasehold estate created by that certain Memo of Lease of record in Deed Book 2036C, page 575 with First Amendment to Sub-Ground Lease and Declaration of Easements between Wellmont Health System, Lessor, and Kingsport MOB, L.L.C., Lessee, of record in Deed Book 2377C, page 454 and corrected and rerecorded in Deed Book 2380C, page 587 and First Amendment to Memorandum of Lease and Declaration of Easements between Wellmont Health System, Lessor, and Kingsport MOB, L.L.C., Lessee, of record in Deed Book 2377C, page 462 and corrected and rerecorded in Deed Book 2380C, page 595, and Second Amendment to Sub-Ground Lease and Declaration of Easements between Wellmont Health System, Lessor, and Kingsport MOB, LLC, Lessee, of record in Deed Book 2402C, page 0545.

Other Property: Legal Description: Kingsport Medical Office Plaza

Located in the City of Kingsport, 11th Civil District of Sullivan County, Tennessee:

Lease Parcel:

BEGINNING at a punch mark in concrete on the south right-of-way margin of Stone Drive (also known as U. S. Highway 11-W and State Route 1), common corner to M. Clyde Groseclose, Jr. (Deed Book 1266C, page 336) and Wellmont Health System Lease (Deed Book 1473C, page 624); thence through said Wellmont Health System, run S. 57° 25' 29" W., 100.82 feet to a point, said point being the TRUE POINT OF BEGINNING; thence run S. 10° 02' 47" W., 115.88 feet to a point; thence run N 79° 57' 13" W., 14.45 feet to a point; thence run S. 10° 24' 35" W., 69.06 feet to a point; thence run N. 79° 57' 13" W., 127.24 feet to a point; thence run N. 10° 24' 35" E., 76.87 feet to a point; thence run N. 79° 57' 13" W., 16.69 feet to a point; thence run N. 10° 02' 47" E., 33.45 feet to a point; thence run S. 79° 57' 13" E., 16.91 feet to a point; thence run N. 10° 24' 35" E., 6.64 feet to a point; thence run S. 79° 57' 13" E., 15.01 feet to a point; thence run N. 10° 24' 35" E., 67.98 feet to a point; thence run S. 79° 57' 13" E., 125.94 feet to a point and back to the TRUE POINT OF BEGINNING, containing 0.570 of an acre, more or less, as shown on survey by Derek L. Harvel, TRLS No. 2129, dated September 16, 2005 and revised October 4, 2005 and February 28, 2006.

Easement Parcel:

BEGINNING on a 1/2" metal rod found at the intersection of the southeasterly right-of-way line of Clinchfield Street and the southerly right-of-way line of Stone Drive (also known as U. S. Highway 11-W and State Route 1); thence with the southerly right-of-way line of said Stone Drive, S. 82° 26' 29" E., 1189.20 feet to a punch mark on concrete, corner to M. Clyde

Groseclose, Jr. (Deed Book 1266C, page 336); thence with said Groseclose the following two calls: 1) S. 12° 33' 17" E., 224.31 feet to a 5/8" metal rod; 2) N. 71° 16' 38" E., 164.01 feet to a 5/8" metal rod on the southwesterly right-of-way line of Gibson Mill Road; thence with said Gibson Mill Road, S. 35° 47' 09" E., 96.84 feet to a 5/8" metal rod, corner to City of Kingsport (Deed Book 147A, page 80); thence with said City of Kingsport in part, the northwesterly right-of-way of Lee Street in part, and City of Kingsport (Deed Book 75C, page 620), S. 56° 03' 16" W., 1036.51 feet to a metal fence post, corner to Rita Groseclose and others (Will Book 17, page 172); thence with said Groseclose the following four calls: 1) N. 48° 43' 32" W., 456.42 feet to a 1" metal pipe found beside of wood fence post, 2) N. 35° 11' 02" W., 618.16 feet to a flat iron found beside a wood post, 3) S. 65° 36' 55" W., 19.99 feet to a 1/2 " metal rod, 4) N. 33° 36' 10" W., 38.00 feet to a 1/2" metal rod on the southeasterly right-of-way line of Clinchfield Street; thence with said Clinchfield Street the following two calls: 1) N. 39° 42' 18" E., 121.71 feet to a railroad spike, 2) N. 54° 58' 49" E., 98.87 feet to the point of BEGINNING, containing 18.92 acres, more or less (excluding the 0.570 acre area for the medical office building lease boundary), as shown on survey by Derek L. Harvel, TRLS No. 2129, dated September 16, 2005 and revised October 4, 2005 and February 28, 2008. Reference is made to Memo of Lease and Declaration of Easements of record in the Register's Office for Sullivan County at Blountville, Tennessee, in Deed Book 2036C, page 575.

Included within the foregoing description of the Easement Parcel but expressly excluded there from are the following properties:

(1) Holston Medical Group, P.C. Sub-Ground Lease Parcel

BEGINNING at a point located North 21 deg. 36 min. 29 sec. East, a distance of 193.81 feet from the southeastern most corner of Tract One, M.C. Groseclose et al property. Deed Book 337A at Page 335, as leased by Wellmont Health System; thence with a new lease boundary line the following six calls, North 78 deg. 57 min. 20 sec. West, a distance of 230.00 feet to a point; thence North 11 deg. 02 min. 40 sec. East, a distance of 141.36 feet to a point; thence North 55 deg. 19 min. 10 sec. East, a distance of 79.87 feet to a point; thence with a non-tangential curve to the Left, a Radius of 125.00 feet, an Arc Length of 115.58 feet, a Chord Bearing of South 81 deg. 41 min. 16 sec. East, and a Chord Distance of 111.51 feet to a point; thence South 34 deg. 07 min. 02 sec. East, a distance of 88.65 feet to a point; thence South 11 deg. 02 min. 40 sec. West, a distance of 141.36 feet to the point of BEGINNING, containing 41,750.9 Sq. Ft., and being shown on map titled "Wellmont Health System Outpatient Facility and M.O.B." and shown as "30,000 Sq. Ft. Future M.O.B.", dated April 12, 2006, by John R. Mize, RLS, Mize & Associates Surveyors, Blountville, Tennessee.

(2) The area occupied by the footprint of the Holston Valley Outpatient Center.



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Exhibit B-9

Other Debtor: Crestview Med Building, LLC, a Delaware limited liability company

Other Security Instrument: Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Other Property: Legal Description: Physicians Medical Plaza

Lot 1, Block 600, Crescent Park – Phase One, a subdivision in Sections 29 and 20, Township 3 North, Range 23 West, Okaloosa County, Florida, according to the Plat thereof as recorded in Plat Book 18, Page 85, of the Public Records of Okaloosa County, Florida

Exhibit B-10

Other Debtor: SHHMOB Pensacola, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: A Leasehold Estate in favor of SHHMOB, Pensacola, LLC, a Delaware limited liability company, formerly known SHHMOB Pensacola, Ltd. A Florida partnership, as set forth in Lease Agreement February 1, 1999 and recorded in Official Records Book 4368, Page 502, on the following described property:

Other Property: Legal Description: Sacred Heart MOB

Commence at the Northeast corner of Section 33, Township 1 South, Range 30 West, Escambia County, Florida; thence proceed North 63 degrees 40'00" West along the North line of said Section 33 a distance of 1853.86 feet to the Westerly right of way line of Ninth Avenue (SR. 289 100' R/W); thence proceed South 42 degrees 32'00" West along said Westerly right of way for a distance of 3450.42 feet to the point of curvature of a circular curve concave to the Southeast, having a radius of 1731.95 feet and a delta angle of 13 degrees 43'02"; thence Southwesterly along the arc of said curve for an arc distance of 414.65 feet (chord distance of 413.66 feet, chord bearing of South 35 degrees 40'29" West); thence South 89 degrees 48'46" West for a distance of 169.55 feet for the Point of Beginning. Thence North 00 degrees 06'20" East for a distance of 127.83 feet; thence South 89 degrees 53'40" East for a distance of 5.26 feet to a point on a non-tangent circular curve concave to the West, having a radius of 93.47 feet and a delta angle of 45 degrees 38'18"; thence Northeasterly along the arc of said curve for an arc distance of 74.45 feet (chord distance of 72.50 feet and chord bearing of North 00 degrees 06'20" East); thence North 89 degrees 53'40" West for a distance of 35.05 feet; thence North 00 degrees 06'20" East for a distance of 105.20 feet; thence North 89 degrees 53'40" West for a distance of 136.50 feet; thence South 00 degrees 06'20" West for a distance of 117.45 feet; thence North 89 degrees 53'40" West for a distance of 76.40 feet; thence South 00 degrees 06'20" West for a distance of 38.00 feet; thence South 89 degrees 53'40" East for a distance of 46.40 feet; thence South 00 degrees 06'20" West for a distance of 67.05 feet; thence South 89 degrees 53'40" East for a distance of 60.19 feet; thence South 00 degrees 06'20" West for a distance of 95.00 feet; thence South 89 degrees 53'40" East for a distance of 136.10 feet; thence North 00 degrees 06'20" East for a distance of 11.97 feet to the Point of Beginning. All lying and being in Sections 33 and 50, Township 1 South, Range 30 West, Escambia County, Florida.

Together with an non-exclusive easements for access, utilities, drainage and parking, as set forth in and granted by Declaration of Easement recorded in Official Records Book 4368, page 506, Public Records of Escambia County, Florida, over and across the following parcel of property:

Commence at the Northeast corner of Section 33, Township 1 South, Range 30 West Escambia County, Florida; thence proceed North 63 degrees 40'00" West along the North line of said Section 33 a distance of 1853.86 feet to the Westerly right of way line of Ninth Avenue (S.R. 289 100' R/W); thence proceed South 42 degrees 32'00" West along said Westerly right of way for a distance of 3302.02 feet for the Point of Beginning. Thence continue South 42 degrees 32'00" West along said Westerly right of way for a distance of 148.40 feet to the point of curvature of a circular curve concave to the Southeast, having a radius of 1731.95 feet and a delta angle of 13 degrees 43'02"; thence Southwesterly along the arc of said curve for an arc distance of 414.65 feet (chord distance of 413.66 feet, chord bearing of South 35 degrees 40'29" West); thence South 89 degrees 48'46" West for a distance of 169.55 feet; thence North 00 degrees 06'20" East for a distance of 127.83 feet; thence South 89 degrees 53'40" East for a distance of 5.26 feet to a point on a non-tangent circular curve concave to the West, having a radius of 93.47 feet and a delta angle of 45 degrees 38'18"; thence Northeasterly along the arc of said curve for an arc distance of 74.45 feet (chord distance of 72.50 feet and chord bearing of North 00 degrees 06'20" East); thence North 89 degrees 53'40" West for a distance of 35.05 feet; thence North 00 degrees 06'20" East for a distance of 105.20 feet; thence North 89 degrees 53'40" West for a distance of 136.50 feet; thence South 00 degrees 06'20" West for a distance of 8.16 feet; thence North 73 degrees 10'19" West for a distance of 27.79 feet to the point of curvature of a circular curve concave to the Northeast, having a radius of 34.00 feet and a delta angle of 72 degrees 59'04"; thence Northwesterly along the arc of said curve for an arc distance of 43.31 feet (chord distance of 40.44 feet, chord bearing of North 36 degrees 40'46" West) to the point of tangency; thence North 00 degrees 11'14" West for a distance of 5.28 feet to the Point of curvature of a circular curve concave to the Southwest, having a radius of 13.00 feet and a delta angle of 90 degrees 00'00"; thence Northwesterly along the arc of said curve for an arc distance of 20.42 feet (chord distance of 18.38 feet, chord bearing of North 45 degrees 11'14" West) to the point of tangency; thence South 89 degrees 48'46" West for a distance of 275.58 feet; thence North 00 degrees 11'14" West for a distance of 253.78 feet to the point of curvature of a circular curve concave to the Southeast, having a radius of 46.00 feet and a delta angle of 90 degrees 00'00"; thence Northeasterly along the arc of said curve for an arc distance of 72.26 feet (chord distance of 65.05 feet and chord bearing of North 44 degrees 48'46" East) to the point of tangency; thence North 89 degrees 48'46" East for a distance of 8.08 feet; thence North 00 degrees 11'14" West for a distance of 57.88 feet; thence North 89 degrees 48'42" East for a distance of 418.00 feet; thence South 00 degrees 11'14" East for a distance of 189.31 feet; thence South 88 degrees 02'3" East for a distance of 343.07 feet to the point of curvature of a circular curve concave to the Southwest, having a radius of 147.00 feet and a delta angle of 49 degrees 29'01"; thence Southeasterly along the arc of said curve for an arc distance of 126.96 feet (chord distance of 123.05 feet, chord bearing of South 70 degrees 55'04" East); thence North 72 degrees 10'56" East for a distance of 89.87 feet to the Point of Beginning.

All lying and being in Sections 33 and 50, Township 1 South, Range 30 West, Escambia County, Florida.

Exhibit B-11

Other Debtor: Huntsville MOB, LLC, a Delaware limited liability company

Other Security Instrument: Mortgage, Assignment of Rents, Security Agreement and Fixture Filing

Other Property: Legal Description: The Women's Pavilion

Unit 1 of the Plaza Medical Office Building Condominium, a Leasehold Condominium created pursuant to that certain Declaration of Leasehold Condominium of the Plaza, a medical office building condominium (the Declaration), recorded in the Office of the Judge of Probate of Madison County, Alabama in Condominium Book 5 beginning at Page 320 to which Declaration plans and plats are attached and filed for record in Plat Book 47, Pages 22 and 23, in said Probate Office, together with an undivided 84.1955% interest in the Common Elements.

Together with rights acquired under that certain Declaration of Easement filed for record with the Judge of Probate of Madison County, Alabama, in Deed Book 1035 at Page 965, as amended by that certain First Amendment to Declaration of Easement recorded with the Judge of Probate of Madison County, Alabama, in Deed Book 1066 at Page 172.

Exhibit B-12

Other Debtor: Hattiesburg Med Building, LLC, a Delaware limited liability company

Other Security Instrument: Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing

Ground Lease: The leasehold estate created by that certain lease by and between Wesley Health System, LLC and Hattiesburg Med Building, LLC, dated February, 19, 2003, as evidenced by Memorandum of Ground Lease by and between Wesley Health System, LLC and Hattiesburg Med Building, LLC, dated May 20, 2003, recorded in Book 161, Page 153, in the Office of the Chancery Clerk of Lamar County, Mississippi.

Other Property: Legal Description: Wesley Medical Plaza

Parcel 1

A tract of land situated and being a part of Lot # 33 of the Methodist Medical Park 3rd Addition Subdivision, Lamar County, Mississippi, being more particularly described as follows:

Commence at the Northeast Corner of Lot # 33 of the Methodist Medical Park 3rd Addition Subdivision, Lamar County, Mississippi, as per the Map or Plat thereof on file in the office of the Chancery Clerk of the Courthouse at Purvis, Lamar County, Mississippi, thence run South 01 degrees 04 minutes 22 seconds East for a distance of 455.44 feet to a point; thence run West for a distance of 419.88 feet to a point, said point being the True Point of Beginning; thence run South for a distance of 45.92 feet to a point; thence run East for a distance of 31.00 feet to a point; thence run South for a distance of 33.00 feet to a point; thence run West for a distance of 31.00 feet to a point; thence run South for a distance of 33.75 feet to a point; thence run West for a distance of 42.67 feet to a point; thence run South for a distance of 2.00 feet to a point; thence run West for a distance of 11.00 feet to a point; thence run south for a distance of 13.00 feet to a point; thence run West for a distance of 28.00 feet to a point; thence run North for a distance of 13.00 feet to a point; thence run West for a distance of 11.00 feet to a point; thence run North for a distance of 2.00 feet to a point; thence run West for a distance of 62.67 feet to a point; thence run North for a distance of 112.67 to a point; thence run East for a distance of 155.34 feet to a point and back to the True Point of Beginning.

Parcel 2

Together with the parking Easement described in Declaration of Covenants, Restrictions and Easements, dated February 19, 2003, and recorded in Book 16-C at page 625 and being more particularly described as follows:

Commence at an iron pipe at the Northeast Cornet of Lot 33 of the Methodist Medical Park 3rd Additional Subdivision as per the Map or Plat thereof on file in the Office of the Chancery Clerk

in the Courthouse at Purvis, Lamar County, Mississippi and run South 01 degree 04 minutes 22 seconds East for 377.59 feet; thence run West for 279.95 feet to a 1/2 inch rebar and the point of beginning.

From the point of beginning run South for 272.51 feet to a 1 inch pipe at the North right of way line of Franklin paved public road; thence run Southwesterly along said North right of way line and along the arc of a curve which curves to the right and has a radius of 225.00 feet, a long chord of North 84 degrees 48 minutes 06 seconds West for 446.40 feet, for an arc length of 649.92 feet to a 1/2 inch rebar at the East right of way line of said Franklin paved public road; thence run North 02 degrees 03 minutes 06 seconds West along said East right of way line for 232.21 feet to a 1/2 inch rebar; thence run East for 452.88 feet back to the point of beginning.

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