

When recorded return to:

Please Return To

Zonia N. Veal H3484-S
First National Financial Title Services, Inc.
3237 Satellite Blvd., Bldg. 300, Ste 450
Duluth, GA 30096



20070119000030230 1/37 \$2451.50
Shelby Cnty Judge of Probate, AL
01/19/2007 12:39:30PM FILED/CERT

Escrow No. Z0602562KJV

MORTGAGE AND SECURITY AGREEMENT

20070119000030230 2/37 \$2451.50
Shelby Cnty Judge of Probate, AL
01/19/2007 12:39:30PM FILED/CERT

PREPARED BY AND UPON
RECORDATION RETURN TO:
Hometown Commercial Capital, LLC
330 Primerose Road, Suite 303
Burlingame, California 94010
Attention: Michael Panah

PREPARED BY:
Lewis and Roca LLP
40 North Central Avenue
Phoenix, Arizona 85004
Attention: Linda Mitchell, Esq.

MORTGAGE
AND SECURITY AGREEMENT

THIS MORTGAGE IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-9A-502(c) OF THE CODE OF ALABAMA.

The following information is provided in order that this Mortgage shall comply with the requirements of the Uniform Commercial Code, as enacted in the State of Alabama, for instruments to be filed as financing statements:

- | | | |
|-----|---|---|
| (a) | Name of Borrower (Debtor): | EVOLUTION MANAGEMENT SERVICES, LLC,
an Alabama limited liability company |
| | Address of Borrower: | 4000 Eagle Point Corporate Drive
Birmingham, Alabama 35242 |
| (b) | Name of Lender (Secured Party): | HOMETOWN COMMERCIAL CAPITAL,
LLC |
| | Address of Lender: | Hometown Commercial Capital, LLC
330 Primrose Road, Suite 303
Burlingame, California 94010
Attention: Andrew G. Kent |
| (c) | Record Owner of Real Estate
described on Exhibit A hereto: | EVOLUTION MANAGEMENT SERVICES, LLC |

Dated: January 11, 2007
Location: 4000 Eagle Point Corporate Drive
Birmingham, Alabama 35242
County: Shelby

File No.: 46426-00035
Title No.: H3484-S

THIS MORTGAGE AND SECURITY AGREEMENT ("Security Instrument") is made as of the 11 day of January, 2007, by EVOLUTION MANAGEMENT SERVICES, INC., an Alabama limited liability company, having its address at 5056 Meadow Brook Road, Birmingham, Alabama 35232, as mortgagor (jointly and severally "Borrower") to HOMETOWN COMMERCIAL CAPITAL, LLC, a Delaware limited liability company, having an address at 330 Primrose Road, Suite 303, Burlingame, California 94010, as beneficiary ("Lender").

RECITALS:

Borrower by its promissory note of even date herewith given to Lender is indebted to Lender in the principal sum of One Million Five Hundred Fifty Five Thousand Dollars and No Cents (\$1,555,000.00) in lawful money of the United States of America ("Note"), with interest from the date thereof at the rates set forth in the Note, principal and interest to be payable in accordance with the terms and conditions provided in the Note.

Borrower desires to secure the payment of the Debt and the performance of all of its obligations under the Note and the Other Obligations. All capitalized terms shall have the meanings ascribed in relevant sections reflected in the Definitions Glossary in Section 20.2.

ARTICLE 1 - GRANTS OF SECURITY

Section 1.1 Property Mortgaged. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender, and grant a security interest to Lender in, the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "Property"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "Land");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land that may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Fixtures and Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (the "Improvements");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, 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 Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Personal Property. All accounts, chattel paper, inventory, equipment, books and records, fixtures, instruments, including promissory notes, investment property, documents, deposit accounts, letter of credit rights, general intangibles including payment intangibles, and supporting obligations (as those terms are defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code"), now or hereafter owned by Borrower, or in which Borrower has or shall have an interest, which are (i) now or hereafter located upon the Land and the Improvements, or (ii) appurtenant thereto, or (iii) usable in connection with the present or future operation and occupancy of the Land and the Improvements, or (iv) related to or used in connection with the operation of the Property; together with all accessions, attachments, accessories, tools, parts, supplies, replacements and additions to any of the foregoing and all products, produce and proceeds (including insurance proceeds) of any of the property described in this section (collectively, the "Personal Property");

(f) Leases and Rents. All existing and further leases, subleases and other agreements affecting the use, enjoyment or occupancy of all or any part of the Land and/or the Improvements (and all extensions, amendments and modifications thereto), now or hereafter made, whether before or after the filing by or against Borrower of any petition for relief under Creditors Rights Laws together with any extension, renewal or replacement of the same (the "Leases") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, all guarantees, letters of credit and any other credit support given by any guarantor, cash or securities deposited under the Lease to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, income, issues and profits (including all oil and gas or other mineral royalties and bonuses) deposits, accounts and other benefits from the Leases or otherwise from the use, enjoyment or occupancy from the Land and Improvements and any cash or security deposited in connection therewith whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Creditors Rights Laws (the "Rents") and 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;

(g) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(h) Tax Certiorari. All refunds, rebates or credits in connection with a reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction; and

(i) Insurance Proceeds. All Policies of Insurance of Borrower, including without limitation those required under Section 3.3(a), and all awards or payments, including interest thereon, resulting from any damage or injury to or decrease in value of the property, which may heretofore and hereafter be made with respect to the Property, to Borrower from any Policy or Policies required under Section 3.3(a); and

(j) Other Rights. Any and all other rights of Borrower in and to the Property, all proceeds and products of, accessions to and substitutions and replacements thereof.

Section 1.2 Assignment of Leases and Rents. Borrower hereby absolutely and unconditionally assigns to Lender Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Section 1.2 and Section 3.8, Lender grants to Borrower a revocable license to collect and receive the Rents. Borrower shall hold the Rents, or a portion thereof, sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

Section 1.3 Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations, a security interest in the Personal Property and other collateral given as security for the Obligations (whether denominated as part of the Property or otherwise) to the extent that under Applicable Laws the same would be governed by the Uniform Commercial Code (collectively, "UCC Collateral") to the full extent that the Personal Property and other UCC Collateral may be subject to the Uniform Commercial Code.

Section 1.4 Pledge of Monies Held. Borrower hereby grants a security interest in and pledges to Lender any and all monies now or hereafter held by Lender, including, without limitation, any sums deposited in the Escrow Fund, Net Proceeds and condemnation awards or payments described in Section 3.6, as additional security for the Obligations until expended or applied as provided in this Security Instrument.

Section 1.5 Condition to Grant. TO HAVE AND TO HOLD the above granted and described Property to the use and benefit of Lender, and the successors and assigns of Lender, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall pay to Lender the Debt at the time and in the manner provided in the Note and this Security Instrument, shall perform the Other Obligations as set forth in this Security Instrument and shall comply with each and every covenant and condition set forth herein and in the Note, these presents and the estate hereby granted shall cease, terminate and be void.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED/PAYMENT COVENANTS

Section 2.1 Debt. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the payment of the following, in such order of priority as Lender may determine in its sole discretion (the "Debt"): (a) the whole principal evidenced by the Note in lawful money of the United States of America; (b) interest, default interest, late charges and other sums, as provided in the Loan Documents; (c) the Prepayment Consideration, if any; (d) all other monies agreed or provided to be paid by Borrower in the Loan Documents; (e) all sums advanced pursuant to this Security Instrument to protect and preserve the Property and the lien and the security interest created hereby; and (f) all sums advanced and costs and expenses incurred by Lender in connection with the Debt or any part thereof, any renewal, extension, modification, replacement, restatement or increase of or substitution for the Debt or any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Borrower or Lender.

For the purposes of this Security Instrument, the term "Debt" shall not include any sums payable or other obligations of Borrower under the Environmental Indemnity.

Section 2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the performance of the following (the "Other Obligations"): (a) each obligation of Borrower contained herein; (b) each obligation of Borrower contained in the other Loan Documents; and (c) each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Loan Documents.

Section 2.3 Payment of Debt. Borrower shall pay the Debt at the time and in the manner provided in the Note and in this Security Instrument. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively as the "Obligations."

Section 2.4 Performance of Other Agreements. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Property, or given by Borrower to Lender for the purpose of further securing an Obligation and any amendments, modifications or changes thereto.

Section 2.5 Payments. Unless payments are made in the required amount in immediately available funds at the place where the Note is payable, remittances in payment of all or any part of the Debt shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Lender in funds immediately available at the place where the Note is payable (or any other place as Lender, in Lender's sole discretion, may have established by delivery of written notice thereof to Borrower) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks; provided, however, Lender shall not be required to accept payment for any Obligation in cash. Acceptance by Lender of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and the failure to pay the entire amount then due shall be and continue to be an Event of Default.

Section 2.6 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Note and (b) all and any of the documents other than the Note or this Security Instrument now or hereafter executed by Borrower and/or others and by or in favor of Lender, which wholly or partially secure or guaranty payment of the Note, the Other Obligations or are otherwise executed and delivered in connection with the Loan (collectively such documents together with the Note and Security Instrument, the "Loan Documents") are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

ARTICLE 3 - PROPERTY COVENANTS

Borrower covenants and agrees that:

Section 3.1 Property Use. The Property shall be used only for its current use, and for no other use without the prior written consent of Lender.

Section 3.2 Management.

(a) The Property shall be managed in a first class manner by Borrower, an entity affiliated with Borrower approved by Lender, or a professional management company approved by Lender. In any instance where the Property is managed by a party other than the Borrower, such third party shall be engaged pursuant to a written agreement approved by Lender. In no event shall any manager be removed or replaced or the terms of any management agreement modified or amended without the prior written consent of Lender.

(b) In the event (i) of default hereunder or under any management contract then in effect, which default is not cured within any applicable grace or cure period, (ii) the debt service coverage ratio as determined by Lender applicable to the Property is less than 1.10 to 1.00 for the twelve (12) month period immediately preceding the calculation, or (iii) of the bankruptcy or insolvency of the manager, Lender shall have the right to immediately terminate, or to direct Borrower to immediately terminate, such management contract and to retain, or to direct Borrower to retain, a new management agent approved by Lender.

Section 3.3 Insurance.

(a) Borrower shall obtain and maintain, or cause to be maintained, at all times until the repayment of the Loan, insurance for Borrower and the Property providing at least the following coverages:

(i) Property Insurance. Insurance with respect to the Improvements and Personal Property insuring against any peril now or hereafter included within the classification "Cause of Loss -- Special Form" (sometimes referred to as "All Risk of Physical Loss"), together with an "Ordinance and Law" endorsement, in amounts at all times sufficient to avoid any co-insurance penalty, but in any event such insurance shall be maintained in an amount equal to the full insurable value of the Improvements and Personal Property, the term "full insurable value" to mean the actual replacement cost of the Improvements and Personal Property (without taking into account any depreciation) determined annually by an insurer, a recognized independent insurance broker or an independent appraiser selected and paid by Borrower (the "Replacement Cost").

(ii) Liability Insurance. Commercial general liability insurance written on an occurrence policy form, covering bodily injury, death and property damage liability, arising out of or connected with the possession, use, leasing, operation, construction, maintenance or condition of the Property in such amounts as are generally required by institutional lenders for properties comparable to the Property but in any event for a limit per occurrence of at least \$2,000,000, an annual aggregate of at least \$2,000,000 and a products/completed operations aggregate of at least \$2,000,000. This requirement may be satisfied by a layering of commercial general liability, umbrella and excess liability policies. Such policies shall also include a duty to defend.

(iii) Workers' Compensation Insurance. Statutory workers' compensation insurance with respect to any work on or about the Property.

(iv) Business Interruption. Business interruption and/or loss of "rental income" insurance in an amount sufficient to avoid any co-insurance penalty and to provide proceeds which will cover actual loss sustained (1) for a period of not less than twelve (12) months from the date of casualty or loss, or (2) until that date on which the property is fully reconstructed or repaired and generating the amount of income and rental income that it was generating prior to the casualty or loss, whichever is later, and notwithstanding that the policy may expire prior to the end of such period.

(v) Boiler and Machinery Insurance. Broad form boiler and machinery insurance (without exclusion for explosion) covering all boilers or other pressure vessels, machinery, and equipment located

in, on or about the Property (including "system breakdown coverage") and insurance against loss of occupancy or use arising from any breakdown in such amounts as are generally required by institutional lenders for properties comparable to the Property.

(vi) Flood Insurance. If required by Subsection 5.5(i), flood insurance including construction delay and business interruption coverage in an amount at least equal to the maximum limit of coverage available for the Property under the National Flood Insurance Act of 1968, The Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994, as each may be amended (the "Flood Insurance Acts").

(vii) Builder's Risk Insurance. At all times during which construction, repairs or alterations are being made with respect to the Improvements which either affect the structure of the Improvements or will cost in excess of ten percent (10%) of the value of the Property (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in Subsection 3.3(a)(i) written in a so-called builder's risk completed value form (1) on a non-reporting basis, (2) against all risks insured against pursuant to Subsection 3.3(a)(i), (3) including permission to occupy the Property, and (4) with an agreed amount endorsement waiving co-insurance provisions.

(viii) Excess Liability Insurance. Excess liability insurance in an amount not less than \$5,000,000 per occurrence on terms consistent with the commercial general liability insurance required under subsection (ii) above.

(ix) Other Insurance. Such other insurance with respect to the Property as may from time to time be required by Lender in its reasonable discretion against other insurable hazards or casualties which at the time are commonly insured against in the case of property similarly situated, including, without limitation, sinkhole, mine subsidence, earthquake and environmental insurance, due regard being given to the height and type of buildings, their construction, location, use and occupancy.

(b) All insurance provided for in Subsection 3.3(a) shall be for a term of not less than one (1) year and obtained under valid and enforceable policies (the "Policies" or in the singular, the "Policy"), and shall be issued by one or more domestic insurer(s) having a general policy rating of A or better and a financial class of VIII or better by A.M. Best Company, Inc. (or if a rating of A.M. Best Company Inc. is no longer available, a similar rating from a similar or successor service). All insurers providing insurance required by this Security Instrument shall be authorized and admitted to issue insurance in the state in which the Property is located. The Policies referred to in Subsection 3.3(a)(ii), (vii)(A) and (viii) above shall name Lender and its successors and assigns as additional insureds, mortgagees or loss payees, as deemed appropriate by Lender, on an endorsement issued by the insurance company, ISO form CG 20 18 11 85 ("Additional Insured - Mortgagee, Assignee, or Receiver") or equivalent reasonably acceptable to Lender, and, to the extent available at commercially reasonable rates, a waiver of subrogation endorsement in favor of Lender. The Policies referred to in Subsection 3.3(a)(i), (iv), (v), (vi), (vii)(B), (viii) and, as applicable, (ix), above shall provide that all proceeds be payable to Lender as set forth in Section 3.7 hereof. The Policies referred to in Subsections 3.3(a)(i), (iv), (v), (vi), (vii)(B), (viii) and, as applicable, (ix) shall also contain: (i) a standard "non-contributory mortgagee" endorsement or its equivalent relating, *inter alia*, to recovery by Lender notwithstanding the negligent or willful acts or omission of Borrower; (ii) to the extent available at commercially reasonable rates, a waiver of subrogation endorsement in favor of Lender; and (iii) an endorsement providing for a deductible per loss of an amount not more than that which is customarily maintained by prudent owners of similar properties in the general vicinity of the Property, but in no event in excess of \$10,000. All Policies shall contain a provision that such Policies shall not be cancelled or terminated without at least twenty (20) days' prior written notice to Lender. Evidence of renewed or replacement insurance shall be delivered to Lender not less than twenty (20) days prior to the expiration of existing coverages. The originals or evidence of all Policies required to be maintained hereunder shall be delivered to Lender promptly after Borrower's receipt thereof but in any case within sixty (60) days after the effective date thereof unless Lender agrees otherwise. If Borrower fails to maintain and deliver to Lender the original Policies required by this Security Instrument, Lender may (but shall not be required to) procure such insurance at Borrower's sole cost and expense.

(c) Unless Lender requires Borrower to obtain a separate Policy or Policies, the insurance coverage required under Section 3.3(a) may be effected under a blanket Policy or Policies covering the Property;

provided that any such blanket Policy shall specify, except in the case of commercial general liability insurance, the premises address of each building, the portion of the total coverage of such Policy that is allocated to the Property, and shall in any case provide the same protection as would a separate policy insuring only the Property and otherwise comply in all other respects with the requirements of this Section 3.3.

(d) Subject to Section 3.7, Lender may apply the Net Proceeds of any Policies carried under this Section 3.3 as a result of damage or destruction to the Property to the reduction or discharge of the Debt whether or not then due and payable.

(e) In the event of a foreclosure of the Security Instrument or other transfer of title to the Property in extinguishment in whole or in part of the Debt, all right, title and interest of Borrower in and to the Policies then in force concerning the Property and all proceeds payable thereunder shall thereupon vest in Lender or the purchaser at such foreclosure or other transferee in the event of such other transfer of title.

Section 3.4 Payment of Taxes, Etc. Borrower shall promptly pay by their due date all taxes, assessments, water rates, sewer rents, governmental impositions, and other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Land, now or hereafter levied or assessed or imposed against the Property or any part thereof (the "Taxes") not paid from the Escrow Fund, all ground rents, maintenance charges and similar charges, now or hereafter levied or assessed or imposed against the Property or any part thereof (the "Other Charges"), and all charges for utility services provided to the Property as same become due and payable. Borrower will deliver to Lender, promptly upon Lender's request, evidence satisfactory to Lender that the Taxes, Other Charges and utility service charges have been so paid or are not then delinquent. Borrower 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 Property. Except to the extent sums sufficient to pay all Taxes and Other Charges have been deposited with Lender in accordance with the terms of this Security Instrument, Borrower shall furnish to Lender paid receipts for the payment of the Taxes and Other Charges prior to the date the same shall become delinquent.

Section 3.5 Escrow Fund. From and after an Event of Default, Borrower shall establish with Lender an Escrow Fund sufficient to discharge Borrower's obligations for the payment of the insurance premiums set forth above (the "Insurance Premiums") and Taxes pursuant to Sections 3.3 and 3.4 hereof. Initial deposits of Taxes and Insurance Premiums shall be made by Borrower to Lender on the date hereof to be held by Lender in escrow. Additionally, Borrower shall pay to Lender on the first day of each calendar month (a) one-twelfth of an amount which would be sufficient to pay the Taxes payable, or estimated by Lender to be payable, during the next ensuing twelve (12) months and (b) one-twelfth of an amount which would be sufficient to pay the Insurance Premiums due for the renewal of the coverage afforded by the Policies upon the expiration thereof (the initial deposits together with the amounts in (a) and (b) above shall be called the "Escrow Fund"). Borrower agrees to notify Lender 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 Lender or its agent to obtain the bills for Taxes and Other Charges directly from the appropriate taxing authority. The Escrow Fund and the payments of interest or principal or both, payable pursuant to the Note shall be added together and shall be paid as an aggregate sum by Borrower to Lender. Provided there are sufficient amounts in the Escrow Fund and no Event of Default exists, Lender shall be obligated to pay the Taxes and Insurance Premiums as they become due on their respective due dates on behalf of Borrower by applying the Escrow Fund to the payment of such Taxes and Insurance Premiums required to be made by Borrower pursuant to Sections 3.3 and 3.4. If the amount of the Escrow Fund shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Sections 3.3 and 3.4, Lender shall, in its discretion, return any excess to Borrower or credit such excess against future payments to be made to the Escrow Fund. In allocating such excess, Lender may deal with the Person shown on the records of Lender to be the owner of the Property. If the Escrow Fund is not sufficient to pay the items set forth in (a) and (b) above, Borrower shall promptly pay to Lender, upon demand, an amount which Lender shall reasonably estimate as sufficient to make up the deficiency. The Escrow Fund shall not constitute a trust fund and may be commingled with other monies held by Lender. Unless otherwise required by Applicable Laws, no earnings or interest on the Escrow Fund shall be payable to Borrower.

Section 3.6 Condemnation. Borrower shall promptly give Lender notice of the actual or threatened commencement of any condemnation or eminent domain proceeding and shall deliver to Lender copies of any and

all notices and papers served in connection with such proceedings. Lender may participate in any such proceedings to the extent permitted by law. Upon an Event of Default, Borrower shall deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Borrower shall not make any agreement in lieu of condemnation of the Property or any portion thereof without the prior written consent of Lender in each instance, which consent shall not be unreasonably withheld or delayed in the case of a taking of an insubstantial portion of the Property. Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise (including, but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), and whether or not any award or payment made in any condemnation or eminent domain proceeding (an "Award") is made available to Borrower for Restoration in accordance with Section 3.7, Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Security Instrument and the Debt shall not be reduced until any Award shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the 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. Borrower shall cause the Award made in any condemnation or eminent domain proceeding, which is payable to Borrower, to be paid directly to Lender. Subject to Section 3.7, Lender may apply any Award to the reduction or discharge of the Debt whether or not then due and payable. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, 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 sufficient to pay the Debt.

Section 3.7 Restoration After Casualty/Condemnation.

(a) If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, or if the Property or any portion thereof is taken in any condemnation or eminent domain proceeding, Borrower shall give prompt notice of such damage or taking to Lender. Borrower shall promptly commence and diligently proceed to restore, repair, replace or rebuild the Property (the "Restoration") in a workmanlike manner to the extent practicable to be of at least equal value and condition and substantially the same character as the Property was immediately prior to such fire or other casualty or taking, with such alterations as may be approved by Lender.

(b) The term "Net Proceeds" for purposes of this Section 3.7 shall mean: (i) the net amount of all insurance proceeds under the Policies carried pursuant to Subsections 3.3(a)(i), (iv), (v), (vi), (vii)(B), (viii) and, as applicable, (ix) of this Security Instrument as a result of such damage or destruction, after deduction of Lender's reasonable costs and expenses (including, but not limited to reasonable legal fees), if any, in collecting the same, or (ii) the net amount of all Awards after deduction of Lender's reasonable costs and expenses (including, but not limited to reasonable legal fees), if any, in collecting the same, whichever the case may be. If (1) the Net Proceeds do not exceed \$100,000 (the "Availability Threshold"); (2) the costs of completing the Restoration as reasonably estimated by Borrower shall be less than or equal to the Net Proceeds; (3) no Event of Default shall have occurred and be continuing under any of the Loan Documents; (4) the Property and the use thereof after the Restoration will be in compliance with, and permitted under, all Applicable Laws; (5) if (A) to the extent the Net Proceeds are insurance proceeds, less than ten percent (10%) of the total floor area of the Improvements has been damaged or destroyed, or rendered unusable as a result of such fire or other casualty; or (B) to the extent the Net Proceeds are condemnation awards, less than ten percent (10%) of the Land constituting the Property is taken, such Land that is taken is located along the perimeter or periphery of the Property, no portion of the Improvements is located in such Lands, and such taking does not materially impair access to the Property; and (6) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note which will be incurred with respect to the Property as a result of the occurrence of any such fire or other casualty or taking, whichever the case may be, will be covered out of (X) the Net Proceeds, or (Y) other funds of Borrower, then the Net Proceeds will be disbursed directly to Borrower.

(c) If the Net Proceeds are greater than the Availability Threshold, such Net Proceeds shall, subject to the provisions of the Leases that are superior to the lien of this Security Instrument or with respect to which subordination and non-disturbance agreements binding upon Lender have been entered into and such subordination and non-disturbance agreements apply to the deposits of Net Proceeds, be forthwith paid to Lender, to be held by Lender in a segregated account to be made available to Borrower for the Restoration in accordance with

the provisions of this Subsection 3.7(c). The Net Proceeds held by Lender pursuant to this Subsection 3.7(c) other than the Net Proceeds paid under the Policy described in Subsection 3.3(a)(iv) (the "Rental Loss Proceeds") shall be made available to Borrower for payment or reimbursement of Borrower's expenses in connection with the Restoration, subject to the following conditions: (i) no Event of Default shall have occurred and be continuing under any of the Loan Documents; (ii) Lender shall, within a reasonable period of time prior to a request for an initial disbursement, be furnished with an estimate of the cost of the Restoration accompanied by an independent architect's opinion based on due professional investigation as to such costs and appropriate plans and specifications for the Restoration, such plans and specifications and cost estimates to be subject to Lender's approval, not to be unreasonably withheld or delayed; (iii) the Net Proceeds, together with any cash or cash equivalent deposited by Borrower with Lender, are sufficient to cover the cost of the Restoration as such costs are certified by the independent architect; (iv) Net Proceeds are less than the then outstanding principal balance of the Note; (v) (A) to the extent the Net Proceeds are insurance proceeds, less than ten percent (10%) of the total floor area of the Improvements has been damaged or destroyed, or rendered unusable as a result of such fire or other casualty; or (B) to the extent the Net Proceeds are condemnation awards, less than ten percent (10%) of the Land constituting the Property is taken, such Land that is taken is located along the perimeter or periphery of the Property, no portion of the Improvements is located in such Lands and such taking does not materially impair access to the Property; (vi) Lender shall be satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note which will be incurred with respect to the Property as a result of the occurrence of any such fire or other casualty or taking, whichever the case may be, will be covered out of the Net Proceeds or other funds of Borrower; (vii) Lender shall be satisfied that, upon the completion of the Restoration, the net cash flow of the Property will be restored to a level sufficient in Lender's sole judgment to cover all carrying costs and operating expenses of the Property, including, without limitation, debt service on the Note at a coverage ratio (after deducting all reserves required by Lender from net operating income) of at least 1.2:1 and all required replacement reserves, reserves for tenant improvements and leasing commissions; (viii) the Restoration can reasonably be completed on or before the earliest to occur of (A) six (6) months prior to the Maturity Date, (B) the earliest date required for such completion under the terms of any Major Leases and (C) such time as may be required under Applicable Laws in order to repair and restore the Property to as nearly as possible the condition it was in immediately prior to such fire or other casualty or to such taking, as applicable; (ix) the Property and its use after the Restoration will be in compliance with, and permitted under, all Applicable Laws; (x) each Major Lease in effect as of the date of the occurrence of such fire or other casualty shall remain in full force and effect during and after the completion of the Restoration without abatement of rent beyond the time required for Restoration; and (xi) Borrower and Guarantor shall execute and deliver to Lender a completion guaranty in form and substance satisfactory to Lender and its counsel pursuant to the provisions of which Borrower and Guarantor shall jointly and severally guaranty to Lender the lien-free completion by Borrower of the Restoration in accordance with the provisions of this Subsection 3.7(c).

(d) The Net Proceeds held by Lender until disbursed in accordance with the provisions of this Section 3.7 shall constitute additional security for the Obligations. The Net Proceeds other than the Rental Loss Proceeds shall be disbursed by Lender to, or as directed by, Borrower, in an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration less customary retainage from time to time during the course of the Restoration, not more frequently than once per month, upon receipt of evidence satisfactory to Lender that (i) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the Restoration have been paid for in full, and (ii) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file the same, or any other liens or encumbrances of any nature whatsoever on the Property arising out of the Restoration which have not either been fully bonded and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company insuring the lien of this Security Instrument. The Rental Loss Proceeds shall be disbursed by Lender to pay for debt service under the loan evidenced by the Note, to pay other expenses incurred by Borrower in connection with the ownership and operation of the Property, and the remainder thereof, to, or as directed by, Borrower to pay for the cost of the Restoration in accordance with this Section 3.7(d). Final payment shall be made after submission to Lender of all licenses, permits, certificates of occupancy and other required approvals of governmental authorization having jurisdiction and a certification of an independent consulting engineer selected by Lender (the "Restoration Consultant") that the Restoration has been fully completed. If at any time the Net Proceeds or the undisbursed balance thereof shall not, in the reasonable opinion of Lender, be sufficient to pay in full the balance of the costs which are estimated by the Restoration Consultant to be incurred in connection with the completion of the Restoration, Borrower shall deposit the deficiency (the "Restoration Deficiency") in immediately available funds with Lender before any further disbursement of the Net Proceeds shall be made. The

Restoration Deficiency deposited with Lender shall be held by Lender and shall be disbursed for costs actually incurred in connection with the Restoration on the same conditions applicable to the disbursement of the Net Proceeds, and until so disbursed pursuant to this Section 3.7 shall constitute additional security for the Obligations.

(e) Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. The identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Restoration Consultant, such acceptance not to be unreasonably withheld or delayed. All costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration including, without limitation, reasonable legal fees and disbursements and the fees of the Restoration Consultant, shall be paid by Borrower.

(f) Except upon the occurrence and continuance of an Event of Default, Borrower shall settle any insurance claims with respect to the Net Proceeds which in the aggregate are less than the Availability Threshold. Lender shall have the right to participate in and reasonably approve any settlement for insurance claims with respect to the Net Proceeds which in the aggregate are greater than the Availability Threshold. If an Event of Default shall have occurred and be continuing, Borrower hereby irrevocably empowers Lender, in the name of Borrower as its true and lawful attorney-in-fact, to file and prosecute such claim and to collect and to make receipt for any such payment. If the Net Proceeds are received by Borrower, such Net Proceeds shall, until the completion of the related work, be held in trust for Lender and shall be segregated from other funds of Borrower to be used to pay for the cost of the Restoration in accordance with the terms hereof.

(g) The excess, if any, of the Net Proceeds and the remaining balance, if any, of the Restoration Deficiency deposited with Lender after (i) the Restoration Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 3.7, and (ii) the receipt by Lender of evidence satisfactory to Lender that all costs incurred in connection with the Restoration have been paid in full and all required permits, licenses, certificates of occupancy and other required approvals of governmental authorities having jurisdiction have been issued, shall be remitted by Lender to Borrower, provided no Event of Default shall have occurred and shall be continuing under any of the Loan Documents. All Net Proceeds not required (i) to be made available for the Restoration, or (ii) to be returned to Borrower as excess Net Proceeds pursuant to this Subsection 3.7(g) shall be retained and applied by Lender toward the payment of the Debt whether or not then due and payable in such order, priority and proportions as Lender in its discretion shall deem proper or, at the discretion of Lender, the same shall be paid, either in whole or in part, to Borrower. If Lender shall receive and retain Net Proceeds, the lien of this Security Instrument shall be reduced only by the amount received and retained by Lender and actually applied by Lender in reduction of the Debt.

Section 3.8 Leases and Rents.

(a) Borrower may enter into a proposed Lease (including the renewal or extension of an existing Lease (a "Renewal Lease")) without the prior written consent of Lender, provided such proposed Lease or Renewal Lease (i) provides for rental rates and terms comparable to existing local market rates and terms (taking into account the type and quality of the tenant) as of the date such Lease is executed by Borrower (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), (ii) is an arm's-length transaction with a bona fide, independent third-party tenant, (iii) does not have a materially adverse effect on the value of the Property taken as a whole, (iv) is subject and subordinate to the Security Instrument and the lessee thereunder agrees to attorn to Lender, (v) is written on the standard form of lease approved by Lender, and (vi) is not a Major Lease. All proposed Leases which do not satisfy the requirements set forth in this Subsection 3.8(a) shall be subject to the prior approval of Lender and its counsel, at Borrower's expense. Borrower shall promptly deliver to Lender copies of all Leases which are entered into pursuant to this Subsection together with Borrower's certification that it has satisfied all of the conditions of this Subsection. For purposes of this Section, the term "Major Lease" shall mean any Lease comprising more than twenty five percent (25%) of the rentable footage of the Property or more than twenty five percent (25%) of the total Rents, together with any instrument guaranteeing or providing credit support therefor.

(b) Borrower shall (i) observe and perform all the obligations imposed upon the lessor under the Leases and shall not do or permit to be done anything to impair the value of any of the Leases as security for the

Debt; (ii) upon request, promptly send copies to Lender of all notices of default which Borrower shall send or receive thereunder; (iii) enforce all of the material terms, covenants and conditions contained in the Leases upon the part of the tenant thereunder to be observed or performed; (iv) not collect any of the Rents more than one (1) month in advance (except security deposits shall not be deemed Rents collected in advance); (v) not execute any other assignment of the lessor's interest in any of the Leases or the Rents; and (vi) not consent to any assignment of or subletting under any Leases not in accordance with their terms, without the prior written consent of Lender.

(c) Except for Major Leases, Borrower may, without the consent of Lender, amend, modify or waive the provisions of any Lease or terminate, reduce rents under, accept a surrender of space under, or shorten the term of, any Lease provided that such action (taking into account, in the case of a termination, reduction in rent, surrender of space or shortening of term, the planned alternative use of the affected space) does not have a materially adverse effect on the value of the Property taken as a whole, and provided that such Lease, as amended, modified or waived, is otherwise in compliance with the requirements of this Security Instrument and any subordination agreement binding upon Lender with respect to such Lease. A termination of a Lease with a tenant who is in default beyond applicable notice and grace periods shall not be considered an action which has a materially adverse effect on the value of the Property taken as a whole. Any amendment, modification, waiver, termination, rent reduction, space surrender or term shortening which does not satisfy the requirements set forth in this Subsection shall be subject to the prior approval of Lender and its counsel, at Borrower's expense. Borrower shall promptly deliver to Lender copies of amendments, modifications and waivers which are entered into pursuant to this Subsection together with Borrower's certification that it has satisfied all of the conditions of this Subsection.

Section 3.9 Maintenance and Use of Property. Borrower (a) shall (i) cause the Property to be maintained in a good and safe condition and repair, and at all times in a manner consistent with its current use and (ii) promptly repair, replace or rebuild any part of the Property which may be destroyed by any casualty, or become damaged, worn or dilapidated or which may be affected by any proceeding of the character referred to in Section 3.6 and shall complete and pay for any structure at any time in the process of construction or repair on the Land, and (b) shall not (i) commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way impair the value of the Property or the security of this Security Instrument, (ii) 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 Property or any part thereof and (iii) without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof. The Improvements and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Personal Property) without the consent of Lender. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

Section 3.10 Compliance With Law. Borrower shall promptly comply with all Applicable Laws, including without limitation the USA Patriot Act of 2001, the Bank Secrecy Act, as amended through the date hereof, Executive Order 13324 – Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended through the date hereof, and other federal laws and regulations and executive orders administered by the United States Department of the Treasury, Office of Foreign Assets Control. Borrower shall from time to time, upon Lender's request, provide Lender with evidence reasonably satisfactory to Lender that the Property complies with all Applicable Laws or is exempt from compliance with Applicable Laws. Notwithstanding any provisions set forth herein or in any document regarding Lender's approval of alterations of the Property, Borrower shall not alter the Property in any manner which would (i) materially increase Borrower's responsibilities for compliance with Applicable Laws (ii) adversely affect (A) Borrower's financial condition, (B) the value of the Property or (C) the gross income derived from the Property without the prior written approval of Lender. Lender's approval of the plans, specifications, or working drawings for alterations of the Property shall create no responsibility or liability on behalf of Lender for their completeness, design, sufficiency or their compliance with Applicable Laws. The foregoing shall apply to tenant improvements constructed by Borrower or by any of its tenants. Lender may condition any such approval upon receipt of a certificate of compliance with Applicable Laws from an independent architect, engineer, or other person acceptable to Lender. Borrower shall give

prompt notice to Lender of the receipt by Borrower of any notice related to a violation of any Applicable Laws and of the commencement of any proceedings or investigations which relate to compliance with Applicable Laws.

Section 3.11 Books and Records.

(a) Borrower and any Guarantor, shall keep adequate books and records of account in accordance with generally accepted accounting principles ("GAAP"), or in accordance with other methods acceptable to Lender in its sole discretion, consistently applied and furnish to Lender:

(i) monthly (or if the Loan has been securitized or sold as a whole loan by Lender, quarterly) and annual (A) certified rent rolls signed and dated by Borrower, detailing the names of all tenants of the Improvements, the portion of Improvements occupied by each tenant, the base rent and any other charges payable under each Lease and the term of each Lease, including the expiration date, the extent to which any tenant is in default under any Lease, and any other information as is reasonably required by Lender, within twenty (20) days after the end of each calendar month, thirty (30) days after the end of each fiscal quarter or sixty (60) days after the close of each fiscal year of Borrower, as applicable; and (B) operating statements of the Property, prepared and certified by Borrower in the form required by Lender (or if required by Lender, an audited annual operating statement prepared by an independent certified public accountant acceptable to Lender), detailing the revenues received, the expenses incurred and the net operating income before and after debt service (principal and interest) and major capital improvements for each month and containing appropriate year-to-date information, within twenty (20) days after the end of each calendar month, thirty (30) days after the end of each fiscal quarter or sixty (60) days after the close of each fiscal year of Borrower, as applicable;

(ii) quarterly and annual balance sheet, profit and loss statements, statement of cash flows, and a statement of change in financial position of Borrower and any Guarantor in the form required by Lender, prepared and certified by the respective Borrower and any Guarantor (or if required by Lender, annual audited financial statements prepared by an independent certified public accountant acceptable to Lender), within thirty (30) days after the end of each fiscal quarter or sixty (60) days after the close of each fiscal year of Borrower and any Guarantor, as the case may be; and

(iii) an annual operating budget presented on a monthly basis consistent with the annual operating statement described above for the Property, including cash flow projections for the upcoming year, and all proposed capital replacements and improvements at least fifteen (15) days prior to the start of each fiscal year.

(b) Upon request from Lender, Borrower and any Guarantor shall furnish in a timely manner to Lender: (i) property management report for the Property, showing the number of inquiries made and/or rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by Lender, in reasonable detail and certified by Borrower under penalty of perjury to be true and complete, but no more frequently than quarterly; and (ii) an accounting of all security deposits held in connection with any Lease of any part of the Property, including the name and identification number of the accounts in which such security deposits are held, the name and address of the financial institutions in which such security deposits are held and the name of the Person to contact at such financial institution, along with any authority or release necessary for Lender to obtain information regarding such accounts directly from such financial institutions.

(c) Borrower, any Guarantor or Affiliated Manager shall furnish Lender with such other additional financial or management information (including State and Federal tax returns) as may, from time to time, be reasonably required by Lender in form and substance satisfactory to Lender.

(d) Borrower, any Guarantor or Affiliated Manager shall furnish to Lender and its agents convenient facilities for the examination and audit of any such books and records.

(e) All items requiring the certification of Borrower shall, except where Borrower is an individual, require a certificate executed by the general partner, managing member or chief executive officer of Borrower, as applicable (and the same rules shall apply to any sole shareholder, general partner or managing member which is not an individual).

Section 3.12 Contest Rights. After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Taxes, Other Charges or any mechanics' lien ("Disputed Liens") or any Applicable Laws affecting the Property, provided that (a) no Event of Default has occurred and is continuing under any of the Loan Documents, (b) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property, (c) such proceeding shall suspend the collection of the Disputed Lien from Borrower and from the Property, or Borrower shall have paid all of the Taxes or the mechanics' lien under protest, (d) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder, (e) with respect to a contest of a Disputed Lien (i) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost and (f) Borrower shall have deposited with Lender adequate reserves for the payment of the Disputed Lien being contested, together with all interest and penalties thereon, unless Borrower has paid all of the Disputed Lien under protest, or Borrower shall have furnished the security as may be required in the proceeding, or as may be reasonably requested by Lender to insure the payment of any contested Disputed Lien, together with all interest and penalties thereon, taking into consideration the amount in the Escrow Fund available for payment of the Disputed Lien, (f) if with respected to an Applicable Laws, (i) neither the Property, any part thereof or any interest therein, any of the tenants or occupants thereof nor the Borrower shall be affected in any material adverse way as a result of such proceeding, and (ii) non-compliance with the Applicable Laws shall not impose civil or criminal liability on the Borrower or the Lender; and (g) Borrower shall have furnished to Lender all other items as reasonably requested by Lender.

ARTICLE 4 - BORROWING ENTITY COVENANTS

Borrower covenants and agrees that:

Section 4.1 Existence. Borrower will continuously maintain (a) its existence and shall not dissolve or permit its dissolution, (b) its rights to do business in the state where the Property is located and (c) its franchises and trade names, if any.

Section 4.2 ERISA. Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender 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"). Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Security Instrument, as requested by Lender in its sole discretion, that (a) Borrower 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; (b) Borrower is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans; and (c) one or more of the following circumstances is true: (i) equity interests in Borrower are publicly offered securities, within the meaning of 29 C.F.R. § 2510.3-101(b)(2); (ii) less than 25% of each outstanding class of equity interests in Borrower are held by "benefit plan investors" within the meaning of 29 C.F.R. § 2510.3-101(f)(2); or (iii) Borrower 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.

Section 4.3 Single Purpose Entity. Borrower (a) shall not engage or be authorized to engage in any business unrelated to the Property, (b) shall not have assets other than those related to its interest in the Property, (c) shall not have any indebtedness other than the Loan, (d) shall have its own books and records separate and apart from any other person or entity, (e) shall hold itself out as being, and shall conduct all business as, a legal entity, separate and apart from any other person and/or entity, with separate stationary, invoices and checks, (f) shall not guaranty the debts or obligations of any other person or entity, and (g) shall not commingle its assets or funds with those of any other person or entity.

Section 4.4 Change of Principal Place of Business/Chief Executive Office. Borrower shall not change the principal place of business or chief executive office set forth in Subsection 5.11 below without the consent of Lender, which consent shall not be unreasonably withheld. Lender's consent shall be conditioned upon,

among other things, the execution and delivery of additional financing statements, security agreements and other instruments which may be necessary to effectively evidence or perfect Lender's security interest in the Property as a result of such change of principal place of business.

Section 4.5 Change of Name, Identity or Structure. Except as may be expressly permitted under Article 8, Borrower will not change Borrower's name, identity (including its trade name or names) or, if not an individual, Borrower's corporate, partnership or other structure without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender.

ARTICLE 5 - REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that:

Section 5.1 Warranty of Title. Borrower has good title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses an unencumbered fee simple absolute estate in the Land and the Improvements and that it owns the Property free and clear of all liens, encumbrances and charges whatsoever except for those exceptions shown in the title insurance policy insuring the lien of this Security Instrument (the "Permitted Exceptions"). Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all persons whomsoever.

Section 5.2 Legal Status and Authority. Borrower has full power, authority and legal right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to, and to keep and observe all of, the terms of this Security Instrument.

[Borrower (a) is duly organized, validly existing and in good standing under the laws of its state of organization or incorporation; (b) is duly qualified to transact business and is in good standing in the state where the Property is located; and (c) has all necessary approvals, governmental and otherwise, and full power and authority to own, operate and lease the Property. Borrower has full power, authority and legal right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the Property pursuant to, and to keep and observe all of, the terms of this Security Instrument.]

Section 5.3 Validity of Documents. (a) The execution, delivery and performance of the Loan Documents and the borrowing evidenced by the Note (i) are within the power and authority of Borrower; (ii) have been authorized by all requisite organizational action; (iii) have received all necessary approvals and consents, corporate, governmental or otherwise; (iv) will not violate, conflict with, result in a breach of or constitute (with notice or lapse of time, or both) a material default under any provision of law, any order or judgment of any court or governmental authority, the articles of incorporation, by-laws, partnership or trust agreement, articles of organization, operating agreement, or other governing instrument of Borrower, or any indenture, agreement or other instrument to which Borrower is a party or by which it or any of its assets or the Property is or may be bound or affected; (v) will not result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of its assets, except the lien and security interest created hereby; and (vi) will not require any authorization or license from, or any filing with, any governmental or other body (except for the recordation of this Security Instrument and the separate Assignment of Lease and Rents given by Borrower to Lender in appropriate land records in the State where the Property is located and except for Uniform Commercial Code filings relating to the security interest created hereby), (b) the Loan Documents have been duly executed and delivered by Borrower through the undersigned authorized representative of Borrower and (c) to the best of Borrower's knowledge, the Loan Documents constitute the legal, valid and binding obligations of Borrower.

Section 5.4 Litigation. There is no action, suit or proceeding, judicial, administrative or otherwise (including any condemnation, eminent domain or similar proceeding), pending or, to the best of Borrower's knowledge, threatened or contemplated against Borrower, or any Guarantor, or affecting the Property that has not been disclosed to Lender by Borrower in writing.

Section 5.5 Status of Property. (a) Borrower has obtained all necessary certificates, licenses and other approvals, governmental and otherwise, necessary for the operation of the Property 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 not subject to revocation, suspension, forfeiture or modification. (b) The Property and the present and contemplated use and occupancy thereof are in full compliance with all Applicable Laws and no portion of the Property has been or will be purchased, improved, equipped, fixtured, or furnished with proceeds of any criminal or other illegal activity and to the best of Borrower's knowledge, there are no illegal activities or activities relating to controlled substances at the Property. (c) The Property is (i) served by all utilities, public water and sewer systems required for the current or contemplated use thereof, and all utility service is provided by public utilities and the Property has accepted or is equipped to accept such utility service, and (ii) free from damage caused by fire or other casualty. (d) All public roads and streets necessary for service of and access to the Property 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. (e) 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. (f) Borrower has paid in full for, and is the owner of, all Personal Property (other than tenants' property) used in connection with the operation of the Property, free and clear of any and all security interests, liens or encumbrances, except the lien and security interest created hereby. (g) All liquid and solid waste disposal, septic and sewer systems located on the Property are in a good and safe condition and repair and in compliance with all Applicable Laws. (h) All security deposits relating to the Leases reflected on the certified rent roll delivered to Lender have been collected by Borrower except as noted on the certified rent roll. (i) No portion of the Improvements is located in an area identified by the Federal Emergency Management Agency or any successor thereto as an area having special flood hazards pursuant to the Flood Insurance Acts or, if any portion of the Improvements is located within such area, Borrower has obtained and will maintain the insurance prescribed in Section 3.3(a)(vi). (j) All the Improvements lie within the boundaries of the Land. (k) The Land 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 is assessed and taxed together with the Property or any portion thereof.

Section 5.6 No Foreign Person. Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended and the related Treasury Department regulations.

Section 5.7 Leases. Except as disclosed in the rent roll for the Property delivered to and approved by Lender, (a) Borrower is the sole owner of the entire lessor's interest in the Leases; (b) the Leases are valid and enforceable and in full force and effect; (c) all of the Leases are arm's-length agreements with bona fide, independent third parties; (d) no party under any Lease is in default; (e) all Rents due have been paid in full; (f) the terms of all alterations, modifications and amendments to the Leases are reflected in the certified occupancy statement delivered to and approved by Lender; (g) none of the Rents reserved in the Leases have been assigned or otherwise pledged or hypothecated; (h) none of the Rents have been collected for more than one (1) month in advance (except a security deposit shall not be deemed rent collected in advance); (i) 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; (j) there exist no offsets or defenses to the payment of any portion of the Rents and Borrower has no monetary obligation to any tenant under any Lease; (k) Borrower has received no notice from any tenant challenging the validity or enforceability of any Lease; (l) there are no agreements with the tenants under the Leases other than expressly set forth in each Lease; (m) the Leases are valid and enforceable against Borrower and the tenants set forth therein; (n) no Lease contains an option to purchase, right of first refusal to purchase, right of first refusal to relet, or any other similar provision; (o) no Person has any possessory interest in, or right to occupy, the Property except under and pursuant to a Lease; (p) each Lease is subordinate to this Security Instrument, either pursuant to its terms or a recordable subordination agreement; (q) no Lease has the benefit of a non-disturbance agreement that would be considered unacceptable to prudent institutional lenders; (r) all security deposits relating to the Leases reflected on the certified rent roll delivered to Lender have been collected by Borrower; and (s) no brokerage commissions or finders fees are due and payable regarding any Lease.

Section 5.8 Financial Condition. Borrower is solvent, and no proceeding under Creditors Rights Laws with respect to Borrower has been initiated, and Borrower has received reasonably equivalent value for the granting of this Security Instrument. No petition in bankruptcy has been filed by or against Borrower, any Guarantor, or any related entity, or any principal, general partner or member thereof, in the last seven (7) years, and

neither Borrower, any Guarantor, nor any related entity, or any principal, general partner or member thereof, in the last seven (7) years has ever made any assignment for the benefit of creditors or taken advantage of any Creditors Rights Laws.

Section 5.9 Business Purposes. The Loan is solely for the business purpose of Borrower, and is not for personal, family, household, or agricultural purposes.

Section 5.10 Taxes. Borrower and any Guarantor each have filed all federal, state, county, municipal, and city income, personal property and other tax returns required to have been filed by them and have paid all taxes and related liabilities which have become due pursuant to such returns or pursuant to any assessments received by them. Neither Borrower nor any Guarantor knows of any basis for any additional assessment in respect of any such taxes and related liabilities for prior years.

Section 5.11 Mailing Address; Principal Place of Business/Chief Executive Office. Borrower's mailing address, as set forth in the opening paragraph hereof or as changed in accordance with the provisions hereof, is true and correct. Borrower's principal place of business and its chief executive office as of the date hereof is 4000 Eagle Point Corporate Drive, Birmingham, Alabama 35242.

Section 5.12 No Change in Facts or Circumstances; Disclosure. All information in the application for the Loan submitted to Lender and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the application or in satisfaction of the terms thereof, are accurate, complete and correct in all respects. There has been no adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading. Borrower has disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any representation or warranty made herein to be materially misleading.

Section 5.13 Third Party Representations. Each of the representations and the warranties made by each Guarantor in any other Loan Document is true and correct in all material respects.

Section 5.14 ERISA. Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, and the assets of Borrower do not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA. Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA and transactions by or with Borrower are not subject to state statutes applicable to Borrower regulating investments of and fiduciary obligations with respect to governmental plans.

ARTICLE 6 - OBLIGATIONS AND RELIANCE

Section 6.1 Relationship of Borrower and Lender. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

Section 6.2 No Reliance on Lender. The members, general partners, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 6.3 No Lender Obligations. Notwithstanding any provision of the Loan Documents, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents. By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to the Loan Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 6.4 Reliance. Borrower recognizes and acknowledges that in accepting the Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 5 and Article 12 without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof; that the warranties and representations are a material inducement to Lender in accepting the Loan Documents; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Article 5 and Article 12.

ARTICLE 7 - FURTHER ASSURANCES

Section 7.1 Recording of Security Instrument, etc. Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the 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 and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of any of the Loan Documents, any note or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, 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 Security Instrument, any mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 7.2 Further Acts, etc. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming to Lender the Property and rights hereby mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument, or other Loan Documents, or for filing, registering or recording this Security Instrument, or for complying with Applicable Laws. Borrower, on demand, will execute and deliver and hereby authorizes Lender, following ten (10) days' notice to Borrower, to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements, chattel mortgages or other instruments, to evidence or perfect more effectively the security interest of Lender in the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender pursuant to this Section 7.2.

Section 7.3 Changes in Tax, Debt Credit and Documentary Stamp Laws.

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

(b) Borrower 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 Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, exercisable by written notice of not less than ninety (90) days, to declare the Debt immediately due and payable.

(c) 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 any of the Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with all interest and penalties thereon.

Section 7.4 Estoppel Certificates.

(a) After request by Lender, Borrower, within ten (10) days, shall furnish Lender 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, except as provided in such statement, there are no defaults or events which with the passage of time or the giving of notice or both, would constitute an event of default under any of the Loan Documents, (vii) that the Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification, (viii) whether any offsets or defenses exist against the obligations secured hereby and, if any are alleged to exist, a detailed description thereof, (ix) that all Leases are in full force and effect and (provided the Property is not a residential multifamily property) have not been modified (or if modified, setting forth all modifications), (x) the date to which the Rents thereunder have been paid pursuant to the Leases, (xi) whether or not, to the best knowledge of Borrower, any of the lessees under the Leases are in default under the Leases, and, if any of the lessees are in default, setting forth the specific nature of all such defaults, (xii) the amount of security deposits held by Borrower under each Lease and that such amounts are consistent with the amounts required under each Lease, and (xiii) as to any other matters reasonably requested by Lender and reasonably related to the Leases, the obligations secured hereby, the Property or this Security Instrument.

(b) Borrower shall use its best efforts to deliver to Lender, promptly upon request, duly executed estoppel certificates from any one or more lessees as required by Lender attesting to such facts regarding the Lease as Lender may require, including, but not limited to attestations that each Lease covered thereby is in full force and effect with no defaults thereunder on the part of any party, that none of the Rents have been paid more than one month in advance, except as security, and that the lessee claims no defense or offset against the full and timely performance of its obligations under the Lease.

(c) Upon any transfer or proposed transfer contemplated by Section 18.1, at Lender's request, Borrower, and any Guarantor, shall provide an estoppel certificate to the Investor or any prospective Investor in such form, substance and detail as Lender, such Investor or prospective Investor may require.

(d) After written request by Borrower not more than twice annually, Lender shall furnish Borrower a statement setting forth (i) the amount of 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 balance of the sums in the Escrow Fund, if any, and (v) a statement regarding whether Lender has delivered to Borrower notice of an Event of Default.

Section 7.5 Splitting of Security Instrument. This Security Instrument and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Lender, be split or divided into two or more notes and two or more security instruments, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Borrower, upon written request of Lender, shall execute, acknowledge and deliver to Lender and/or its designee or designees, substitute notes and security instruments in such principal amounts, aggregating not more than the then unpaid principal amount secured by this Security Instrument, and containing terms, provisions and clauses (a) no less favorable to Borrower than those contained herein and in the Note, and (b) which do not materially increase Borrower's obligations hereunder, and such other documents and instruments as may be required by lender to effect the splitting of the Note and this Security Instrument.

Section 7.6 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of any of the Loan Documents which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Loan Document, Borrower will issue, in lieu thereof, a replacement Loan Document, dated the date of such lost, stolen, destroyed or mutilated Loan Document in the same principal amount thereof and otherwise of like tenor.

Section 7.7 Amended Financial Statements. Borrower will execute and deliver to the Lender, prior to or contemporaneously with the effective date of any change, any financing statement or financing statement change required by the Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of the Lender, Borrower shall execute a certificate in form satisfactory to the Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

ARTICLE 8 - DUE ON SALE/ENCUMBRANCE

Section 8.1 No Sale/Encumbrance. It shall be an Event of Default if there is any Prohibited Transfer. A "Prohibited Transfer" shall mean any Sale, Pledge or other transfer of a legal or equitable interest in the Property, any part thereof or any legal or beneficial interest therein, or of any interest in any Restricted Party other than a Permitted Transfer, including, not be limited to, (a) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (b) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; (c) if a Restricted Party is (i) a corporation, any merger, consolidation or Sale or Pledge of such corporation's stock or the creation or issuance of new stock in one or a series of transactions, (ii) a limited or general partnership or joint venture, any merger or consolidation or the change, removal, resignation or addition of a general partner or the Sale or Pledge of the partnership interest of any general or limited partner or any profits or proceeds relating to such partnership interests or the creation or issuance of new limited partnership interests, (iii) a limited liability company, any merger or consolidation or the change, removal, resignation or addition of a managing member or non-member manager (or if no managing member, any member) or the Sale or Pledge of the membership interest of a managing member (or if no managing member, any member) or any profits or proceeds relating to such membership interest, or the Sale or Pledge of non-managing membership interests or the creation or issuance of new non-managing membership interests, or (vi) a trust or nominee trust, any merger, consolidation or the Sale or Pledge of the legal or beneficial interest in a Restricted Party or the creation or issuance of new legal or beneficial interests; or (d) the removal or the resignation of the managing agent (including, without limitation, an Affiliated Manager) other than in accordance with Section 3.2.

Section 8.2 Permitted Transfers. The following transfers shall be deemed to be "Permitted Transfers": (a) Leases of space in the Improvements to tenants in accordance with the provisions of Section 3.8; (b) a transfer by devise or descent or by operation of law upon the death of a member, partner or shareholder of a Restricted Party; and (c) the Sale or Pledge, in one or a series of transactions, of not more than forty nine percent (49%) of the stock, limited partnership interests or non-managing membership interests (as the case may be) in a Restricted Party; provided, however, no such transfers shall result in a change in Control in the Restricted Party, and as a condition to each such transfer, Lender shall receive not less than ten (10) days prior written notice of such proposed transfer .

Section 8.3 Lender's Rights. Lender reserves the right to condition the consent to a Prohibited Transfer requested hereunder upon a modification of the terms hereof and on assumption of the Note, and the other Loan Documents as so modified by the proposed Prohibited Transfer, payment of a transfer fee of 1%, and all of Lender's expenses incurred in connection with such Prohibited Transfer, the approval by a Rating Agency of the proposed transferee, the proposed transferee's continued compliance with the covenants set forth in this Security Instrument, including, without limitation, the covenants in Section 4.3 or such other conditions and/or legal opinions as Lender shall determine in its sole discretion to be in the interest of Lender. All expenses incurred by Lender shall be payable by Borrower whether or not Lender consents to the Prohibited Transfer. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Prohibited Transfer without Lender's consent. This provision shall apply to every Prohibited Transfer, whether or not Lender has consented to any previous Prohibited Transfer. Notwithstanding anything to the contrary contained in this Article 8, in the event any Prohibited Transfer results in any entity or party owning in excess of forty nine percent (49%) of the ownership interest in a Restricted Party, Borrower shall, prior to such transfer, deliver a substantive non-consolidation opinion to Lender, which opinion shall be in form, scope and substance acceptable in all respects to Lender and the Rating Agencies.

Section 8.4 Transfer Definitions. For purposes of this Article 8, an "Affiliated Manager" shall mean any managing agent in which Borrower, or any Guarantor, has, directly or indirectly, any legal, beneficial or economic interest; "Control" shall mean the power to direct the management and policies of a Restricted Party, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise; "Restricted Party" shall mean Borrower, any Guarantor, or any Affiliated Manager, or any shareholder, partner, member or non-member manager, or any direct or indirect legal or beneficial owner of Borrower, any Guarantor, or Affiliated Manager, or any non-member manager; and a "Sale or Pledge" shall mean a voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, grant of any options with respect to, or any other transfer or disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) of a legal or beneficial interest.

ARTICLE 9 - RESERVED

ARTICLE 10 - DEFAULT

Section 10.1 Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default":

(a) if any portion of the Debt is not paid on or prior to the 5th day after the date the same is due or if the entire Debt is not paid on or before the Maturity Date;

(b) if any of the Taxes or Other Charges is not paid when the same is due and payable except to the extent sums sufficient to pay such Taxes and Other Charges have been deposited with Lender in accordance with the terms of this Security Instrument;

(c) if the Policies are not kept in full force and effect, or if the Policies are not delivered to Lender as provided in Section 3.3(b);

(d) if Borrower violates or does not comply with any of the provisions of Article 4 or Article 8;

(e) if any representation or warranty of, or with respect to, Borrower, or any person guaranteeing payment of the Debt or any portion thereof or performance by Borrower of any of the terms of this Security Instrument (a "Guarantor"), or any member, general partner, principal or beneficial owner of any of the foregoing, made herein or in the Environmental Indemnity or in any guaranty, or in any certificate, report, financial statement or other instrument or document furnished to Lender shall have been false or misleading in any material respect when made;

(f) if (i) Borrower or any managing member or general partner of Borrower, or any Guarantor, shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, conservatorship, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to its debts or debtors ("Creditors Rights Laws"), seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Borrower or any managing member or general partner of Borrower, or any Guarantor, shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against Borrower, any managing member or general partner of Borrower, or any Guarantor, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iii) there shall be commenced against the Borrower or any managing member or general partner of Borrower, or any Guarantor, any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of any order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (iv) the Borrower or any managing member or general partner of Borrower or any Guarantor, shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or

(v) the Borrower, any managing member or general partner of Borrower or any Guarantor, shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(g) if Borrower shall be in default beyond applicable notice and grace periods under any other mortgage, deed of trust, deed to secure debt or other security agreement covering any part of the Property, whether it be superior or junior in lien to this Security Instrument;

(h) if the Property becomes subject to any mechanic's, materialman's or other lien other than a lien for any Taxes or Other Charges not then due and payable and the lien shall remain undischarged of record (by payment, bonding or otherwise) for a period of thirty (30) days;

(i) if any federal tax lien is filed against Borrower, any member or general partner of Borrower, or any Guarantor, or the Property and same is not discharged of record within thirty (30) days after same is filed;

(j) if any default occurs under any guaranty or indemnity executed in connection herewith (including the Environmental Indemnity, defined in Section 12.5) and such default continues after the expiration of applicable grace periods, if any; or

(k) if for more than ten (10) days after notice from Lender, Borrower shall continue to be in default under any other term, covenant or condition of any of the Loan Documents in the case of any default which can be cured by the payment of a sum of money or for thirty (30) days after notice from Lender in the case of any other default, provided that if such default cannot reasonably be cured within such thirty (30) day period and Borrower shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Borrower in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of sixty (60) days.

(l) if Borrower fails to make the required repairs identified on the attached Exhibit B within 90 days following the date of this Mortgage.

ARTICLE 11 - RIGHTS AND REMEDIES

Section 11.1 Remedies. Upon the occurrence of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

(a) declare the entire unpaid Debt to be immediately due and payable;

(b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any Applicable Laws in which case the 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;

(c) with or without entry, to the extent permitted and pursuant to the procedures provided by Applicable Laws, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

(d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, in one or more parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by Applicable Laws. Lender may sell the Property in accordance with Applicable

Laws to the highest bidder at public auction in front of the courthouse door in the county or counties, as may be required, where the Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county or counties, as may be required, and, upon payment of the purchase money, Lender or any person conducting the sale for Lender is authorized to execute to the purchaser at said sale a deed to the Property so purchased. Lender may bid at said sale and purchase the Property, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Property may be offered for sale and sold as a whole or in one or more parcels without first offering it in any other manner or may be offered for sale and sold in any other manner as Lender may elect;

(e) subject to the provisions of Article 11 of the Note, institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained in the Loan Documents;

(f) subject to the provisions of Article 11 of the Note, recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any Guarantor, or of any Person liable for the payment of the Debt;

(h) subject to any Applicable Laws, the license granted to Borrower under Section 1.2 shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records, accounts, rent rolls, leases (including the form lease) subleases (including the form sublease) and rental and license agreements with the tenants, subtenants and licensees in possession of the Property or any part or parts thereof; tenants', subtenants' and licensees' money deposits or other property (including, without limitation, any letter of credit) given to secure tenants', subtenants' and licensees' obligations under leases, subleases or licenses, together with a list of the foregoing; all lists pertaining to current rent and license fee arrears; any and all architects' plans and specifications, licenses and permits, documents, books, records, accounts, surveys and property which relate to the management, leasing, operation, occupancy, ownership, insurance, maintenance, or service of or construction upon the Property and Borrower agrees to surrender possession of the foregoing and of the Property to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) either require Borrower (A) to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower, or (B) to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vi) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable legal fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, Insurance Premiums and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise 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: (i) the right to take possession of the Personal Property and other UCC Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Personal Property and other UCC Collateral, and (ii) request Borrower at its expense to assemble the Personal Property and other UCC Collateral and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Personal Property and other UCC Collateral sent to Borrower in

accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) exercise any and all rights and remedies available upon default to Lender at law or in equity as pledgee under Section 1.4 to apply any sums then deposited in the Escrow Fund and any other sums held in escrow or otherwise by Lender in accordance with the terms of any of the Loan Documents to the payment of the following items in any order in its sole discretion: (i) Taxes and Other Charges; (ii) Insurance Premiums; (iii) interest on the unpaid principal balance of the Note; (iv) amortization of the unpaid principal balance of the Note; and (v) all other sums payable pursuant to any of the Loan Documents, including, without limitation, advances made by Lender pursuant to the terms of this Security Instrument;

(k) surrender the Policies maintained pursuant to Article 3, collect the unearned Insurance Premiums and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect any unearned Insurance Premiums;

(l) apply the undisbursed balance of any Net Proceeds or Restoration Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion;

(m) prohibit Borrower and anyone claiming for or through Borrower from making use of or withdrawing any sums from any lockbox, escrow or similar account;

(n) exercise all rights and remedies under any Causes of Action, whether before or after any sale of the Property by foreclosure, power of sale, or otherwise and apply the proceeds of any recovery to the Debt in accordance with Section 11.2 or to any deficiency under this Security Instrument; or

(o) pursue such other remedies as Lender may have under applicable state or federal law.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority. Notwithstanding the provisions of this Section 11.1 to the contrary, if any Event of Default as described in clause (i) or (ii) of Subsection 10.1(f) shall occur, the entire unpaid Debt shall be automatically due and payable, without any further notice, demand or other action by Lender.

Section 11.2 Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 11.3 Right to Cure Defaults. Upon the occurrence of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt. The cost and expense of any cure hereunder (including reasonable legal fees to the extent permitted by law), with interest as provided in this Section 11.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor. Borrower hereby grants Lender an irrevocable power of attorney, coupled with an interest, to take any and

all of the actions designated by Lender for the exercise of the rights herein granted and the proper management and preservation of the Property.

Section 11.4 Actions and Proceedings. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property, and after the occurrence and during the continuance of an Event of Default, to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 11.5 Recovery of Sums Required to be Paid. Lender 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 Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

Section 11.6 Examination of Books and Records. Lender, its agents, accountants and attorneys shall have the right upon prior written notice (unless an Event of Default exists, in which case no notice shall be necessary), to examine and audit, during reasonable business hours, the records, books, management and other papers of Borrower and its affiliates or of any Guarantor which pertain to their financial condition or the income, expenses and operation of the Property, at the Property or at any office regularly maintained by Borrower, its affiliates or any Guarantor where the books and records are located. Lender and its agents shall have the right upon notice to make copies and extracts from the foregoing records and other papers.

Section 11.7 Other Rights, etc.

(a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any Guarantor to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions of the Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment, changing the rate of interest, or otherwise modifying or supplementing the terms of the Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender 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.

Section 11.8 Right to Release Any Portion of the Property. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 11.9 Violations of Law. If the Property is not in compliance with Applicable Laws, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

Section 11.10 Right of Entry. Lender and its agents shall have the right to enter and inspect the Property at all reasonable times, to exercise any of its rights and remedies hereunder or under any other Loan Document (including, without limitation, upon the termination of the Borrower's license to collect Rents pursuant to Section 1.2 or pursuant to that certain Assignment of Leases and Rents of even date herewith by Borrower in favor of Lender).

Section 11.11 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Borrower's obligations under the Loan Documents and the performance and discharge of the Other Obligations.

Section 11.12 Failure to Provide Accurate Information. In the event that Borrower, any Guarantor, or Affiliated Manager (a) fails to timely provide any such reports, information, statements or other materials within five (5) days of Lender's request, or (b) provides Lender with any such reports, information, statements or other materials which are inaccurate or false in any material respect, or (c) fails to permit Lender or its agents to inspect its books and records within five (5) days of Lender's request, then for so long as each such occurrence described in the foregoing clauses (a) through (c) exists and in addition to Lender's other remedies under the Loan Documents, Lender may charge Borrower a document review fee in the amount of One Thousand Dollars (\$1,000.00).

Section 11.13 No Mortgagee In Possession. Nothing herein contained or contained in any other Loan Document shall be construed as constituting Lender a "mortgagee in possession" in the absence of the taking of the actual possession of the Property by Lender. In the exercise of the powers herein granted and granted in the other Loan Documents, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Borrower.

ARTICLE 12 - ENVIRONMENTAL HAZARDS

Section 12.1 Environmental Representations and Warranties. Borrower represents and warrants, based upon information that Borrower knows or should reasonably have known, that: (a) there are no Hazardous Materials or underground storage tanks in, on, or under the Property, except those that are both (i) in compliance with Environmental Laws and with permits issued pursuant thereto (if such permits are required), if any, (ii) either (A) in amounts not in excess of that necessary to operate the Property or (B) fully disclosed to and approved by Lender in writing pursuant to an Environmental Report; (b) there are no past, present or threatened Releases of Hazardous Materials in violation of any Environmental Law and which would require remediation by a governmental authority in, on, under or from the Property except as described in the Environmental Report; (c) there is no threat of any Release of Hazardous Materials migrating to the Property except as described in the Environmental Report; (d) there is no past or present non-compliance with Environmental Laws, or with permits issued pursuant thereto, in connection with the Property except as described in the Environmental Report; (e) Borrower does not know of, and has not received, any written or oral notice or other communication from any Person relating to Hazardous Materials in, on, under or from the Property; (f) the Property is not subject to any private or government lien, or judicial or administrative notice, action, inquiry, investigation or claim relating to Hazardous Materials; (g) no Hazardous Materials have been incorporated into, or removed or transported from, the Property; and (h) Borrower has truthfully and fully provided to Lender, in writing, any and all information relating to environmental conditions in, on, under or from the Property known to Borrower or contained in Borrower's files and records, including but not limited to any reports relating to Hazardous Materials in, on, under or migrating to or from the Property and/or to the environmental condition of the Property, and (iii) comply with the recommendation of any environmental site assessment report pursuant to this Section.

Section 12.2 Environmental Covenants. Borrower covenants and agrees that so long as Borrower owns, manages, is in possession of, or otherwise controls the operation of the Property: (a) all uses and operations on or of the Property, whether by Borrower or any other Person, shall be in compliance with all Environmental Laws and permits issued pursuant thereto; (b) there shall be no Releases of Hazardous Materials in, on, under or from the Property; (c) there shall be no, and Borrower shall promptly remove any, Hazardous Materials in, on, or under the Property, except those that are both (i) in compliance with all Environmental Laws and with permits issued pursuant thereto, if and to the extent required, and (ii) (A) in amounts not in excess of that necessary to operate the Property or (B) fully disclosed to and approved by Lender in writing; (d) Borrower shall keep the Property free and clear of all Environmental Liens; (e) Borrower shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to Section 12.4 below, including but not limited to providing all relevant information and making knowledgeable persons available for interviews; (f) Borrower shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property, pursuant to any reasonable written request of Lender, upon Lender's reasonable belief that the Property is not in full compliance with all Environmental Laws, and share with Lender the reports and other results thereof, and Lender and other Indemnified Parties shall be entitled to rely on such reports and other results thereof; (g) Borrower shall, at its sole cost and expense, comply with all reasonable written requests of Lender to (i) reasonably effectuate remediation of any Hazardous Materials in, on, under or from the Property; (ii) comply with any Environmental Law; and (iii) comply with the recommendation of any environmental site assessment report provided pursuant to this Section; (h) Borrower shall not allow any tenant or other user of the Property to violate any Environmental Law; and (i) Borrower shall immediately notify Lender in writing after it has become aware of (A) any presence or Release or threatened Release of Hazardous Materials in, on, under, from or migrating towards the Property or any other circumstance that could cause the Property to be subject to an investigation or clean up pursuant to any Environmental Law; (B) any non-compliance with any Environmental Laws related in any way to the Property; (C) any proceeding or inquiry by any party with respect to the presence of Hazardous Materials on, under, from or about the Property, or any actual or potential Environmental Lien against the Property; (D) any required or proposed remediation of environmental conditions relating to the Property; and (E) any written or oral notice or other communication of which Borrower becomes aware from any source whatsoever (including but not limited to a governmental entity) relating in any way to Hazardous Materials, including without limitation relating to any loss or injury resulting from Hazardous Materials. Any failure of Borrower to perform its obligations pursuant to this Section 12.2 shall constitute bad faith waste with respect to the Property.

Section 12.3 Lender's Rights. Lender and any other Person designated by Lender, including but not limited to any representative of a governmental entity, and any environmental consultant, and any receiver appointed by any court of competent jurisdiction, shall have the right, but not the obligation, to enter upon the Property at all reasonable times to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lender's sole discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Borrower shall cooperate with and provide access to Lender and any such person or entity designated by Lender. Lender (or any receiver appointed by it) shall have the right to join and participate in, as a party if it so elects, any legal proceeding or action initiated with respect to the Property in connection with any Environmental Laws or Hazardous Materials.

Section 12.4 Operations and Maintenance Programs; Remedial Work.

(a) If recommended by the Environmental Report or any other environmental assessment or audit of the Property, Borrower shall promptly establish and diligently comply with an operations and maintenance program with respect to the Property, in form and substance reasonably acceptable to Lender, prepared by an environmental consultant reasonably acceptable to Lender, which program shall address any asbestos-containing material or lead based paint that may now or in the future be detected at or on the Property. Without limiting the generality of the preceding sentence, Lender may require (i) periodic notices or reports to Lender in form, substance and at such intervals as Lender may specify, (ii) an amendment to such operations and maintenance program to address changing circumstances, laws or other matters, (iii) at Borrower's sole expense, supplemental examination of the Property by consultants specified by Lender, (iv) access to the Property by Lender, its agents or servicer, to review and assess the environmental condition of the Property and Borrower's compliance with any operations and

maintenance program, and (v) variation of the operations and maintenance program in response to the reports provided by any such consultants.

(b) All Remedial Work shall be performed by contractors approved in advance by Lender, and under the supervision of a consulting engineer approved by Lender. All costs and expenses of such Remedial Work shall be paid by Borrower including, without limitation, Lender's reasonable attorneys' fees and costs incurred in connection with monitoring or review of such Remedial Work. In the event Borrower shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion, such Remedial Work, Lender may, but shall not be required to, cause such Remedial Work to be performed, and all costs and expenses thereof, or incurred in connection therewith, shall become part of the Debt and shall bear interest thereafter until paid at the default interest rate provided for under the Note.

Section 12.5 Environmental Definitions. "Environmental Indemnity" means that certain Environmental and Hazardous Substance Indemnification Agreement given to Borrower to Lender dated the date hereof. "Environmental Law" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations, standards, policies and other government directives or requirements, as well as common law, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, the Emergency Planning and Community Right-to-Know Act of 1986, the Hazardous Substances Transportation Act, the Solid Waste Disposal Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Safe Drinking Water Act and the Occupational Safety and Health Act (each, as amended), that apply to Borrower or the Property and relate to Hazardous Materials or protection of human health or the environment. "Environmental Liens" means all Liens and other encumbrances imposed pursuant to any Environmental Law, whether due to any act or omission of Borrower or any other Person. "Environmental Report" means the written reports resulting from the environmental site assessments of the Property delivered to Lender. "Hazardous Materials" shall mean petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives, flammable materials; radioactive materials; polychlorinated biphenyls ("PCBs") and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance now or in the future defined as a "biohazardous waste", "hazardous substance", "hazardous material", "hazardous waste", "hazardous air pollutant", "infectious waste", "radioactive waste", "toxic substance", "toxic pollutant", "contaminant", or "pollutant" within the meaning of any Environmental Law or any formulation not mentioned herein intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "EP toxicity" or "TCLP toxicity." "Release" of any Hazardous Materials includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing, generation, or other movement of Hazardous Materials. "Remedial Work" means any investigation, site monitoring, containment cleanup, removal, restoration or other work of any kind which is reasonably necessary or desirable under any applicable Environmental Law or otherwise required hereunder in connection with any Hazardous Materials.

ARTICLE 13 - INDEMNIFICATION

Section 13.1 General Indemnification. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses 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 one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Applicable Laws; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; or (f) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan evidenced by the Note and secured by this Security Instrument. Any amounts payable to

Lender by reason of the application of this Section 13.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid. The term "Losses" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to legal fees and other costs of defense). The term "Indemnified Parties" shall mean (a) Lender, (b) any prior owner or holder of the Note, (c) any servicer or prior servicer of the Loan, (d) any Investor or any prior Investor in any Participations or Securities, (e) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any Investor or other third party, (f) any receiver or other fiduciary appointed in a foreclosure or other Creditors Rights Laws proceeding, (g) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (h) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties' assets and business), in all cases whether during the term of the Loan or as part of or following a foreclosure of the Loan.

Section 13.2 Mortgage and/or Intangible Tax. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses 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 on the making and/or recording of any of the Loan Documents.

Section 13.3 Duty to Defend; Legal Fees and Other Fees and Expenses. Upon written request by any Indemnified Party, Borrower 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 the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their sole discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Borrower 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.

ARTICLE 14 - WAIVERS

Section 14.1 General Waivers. Borrower hereby expressly waives and releases: (a) the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with any of the Loan Documents, or the Obligations; (b) to the extent permitted by law, the benefit of all Applicable Laws now or hereafter in force regarding appraisal, valuation, stay, extension, reinstatement and redemption and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein; (c) any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by Applicable Law; (d) to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations; and (e) any defense Borrower might assert or have by reason of Lender's failure to make any tenant or lessee of the Property a party defendant in any foreclosure proceeding or action instituted by Lender.

Section 14.2 Waiver of Notice. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Lender is required by Applicable Laws to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 14.3 Sole Discretion of Lender. Wherever pursuant to this Security Instrument or any other Loan Document (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision to approve or disapprove all decisions that arrangements or terms are satisfactory or not satisfactory, and all other

decisions and determinations made by Lender, shall be in the sole discretion of Lender, except as may be otherwise expressly and specifically provided herein.

Section 14.4 Waiver of Trial by Jury. BORROWER AND LENDER, BY ACCEPTANCE OF THIS SECURITY INSTRUMENT, HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THE APPLICATION FOR THE LOAN, THE LOAN DOCUMENTS OR ANY ACTS OR OMISSIONS OF LENDER OR BORROWER. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND LENDER (BY ITS ACCEPTANCE HEREOF), AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LENDER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER AND LENDER (BY ITS ACCEPTANCE HEREOF).

Section 14.5 No Personal Liability of Lender. Notwithstanding anything to the contrary provided in this Security Instrument or the other Loan Documents, it is specifically understood and agreed, such agreement being a primary consideration for the execution of this Security Instrument and the other Loan Documents by Lender, that (a) there shall be absolutely no personal liability on the part of any shareholder, director, officer or employee of Lender, with respect to any of the terms, covenants and conditions of this Security Instrument or the other Loan Documents, (b) Borrower waives all claims, demands and causes of action against Lender's officers, directors, employees and agents in the event of any breach by Lender of any of the terms, covenants and conditions of this Security Instrument or the other Loan Documents to be performed by Lender and (c) Borrower shall look solely to the assets of Lender for the satisfaction of each and every remedy of Borrower in the event of any breach by Lender of any of the terms, covenants and conditions of this Security Instrument or the other Loan Documents to be performed by Lender, such exculpation of liability to be absolute and without any exception whatsoever.

ARTICLE 15 – INTENTIONALLY OMITTED

ARTICLE 16 – NOTICES

Section 16.1 Notices. All notices or other written communications hereunder shall be deemed to have been properly given (a) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof, (b) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, or (c) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to Borrower or Lender, as the case may be, at the addresses set forth on the first page of this Security Instrument or addressed as such party may from time to time designate by written notice to the other parties. Either party by written notice to the other may designate additional or different addresses for subsequent notices or communications. For purposes of this Subsection, "Business Day" shall mean a day on which commercial banks are not authorized or required by law to close in New York, New York.

ARTICLE 17 - CHOICE OF LAW

Section 17.1 Choice of Law. This Security Instrument, the other Loan Documents and any determination of deficiency judgments shall be governed, construed, applied and enforced in accordance with the laws of the state in which the Property is located and applicable laws of the United States of America.

Section 17.2 Provisions Subject to Law. All rights, powers and remedies provided in this Security Instrument and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any Applicable Laws and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under any Applicable Laws.

ARTICLE 18 - SECONDARY MARKET

Section 18.1 Transfer of Loan. Lender may, at any time, sell, transfer or assign the Loan Documents, or grant participations therein (the "Participations") or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (the "Securities").

Section 18.2 Sale or Delegation of Servicing. Lender may, at any time, transfer any and all of the servicing rights with respect to the Loan, or delegate any or all of its responsibilities as Lender under the Loan Documents.

Section 18.3 Dissemination of Information. Lender may forward to each purchaser, transferee, assignee, or servicer of, and each participant, or investor in, the Loan, or any Participations and/or Securities or any of their respective successors (collectively, the "Investor") or any Rating Agency rating the Loan, or any Participations and/or Securities, each prospective Investor, and any organization maintaining databases on the underwriting and performance of commercial mortgage loans, all documents and information which Lender now has or may hereafter acquire relating to the Debt and to Borrower, any Guarantor, and the Property, including financial statements, whether furnished by Borrower, any Guarantor, or otherwise, as Lender determines necessary or desirable. Borrower irrevocably waives any and all rights it may have under Applicable Laws to prohibit such disclosure, including but not limited to any right of privacy.

Section 18.4 Cooperation. Borrower and any Guarantor agree to cooperate with Lender in connection with any transfer made or any Participation and/or Securities created pursuant to this Section, including, without limitation, the delivery of an estoppel certificate required in accordance with Subsection 7.4(c) and such other documents as may be reasonably requested by Lender. Borrower shall also furnish and Borrower and any Guarantor consent to Lender furnishing to such Investors or such prospective Investors or such Rating Agency any and all information concerning the Property, the Leases, the financial condition of Borrower and any Guarantor as may be requested by Lender, any Investor, any prospective Investor or any Rating Agency in connection with any sale or transfer of the Loan or any Participations or Securities.

Section 18.5 Reserves/Escrows. In the event that Participations or Securities are issued in connection with the Loan, all funds held by Lender in escrow or pursuant to reserves in accordance with the Loan Documents shall be deposited in "eligible accounts" at "eligible institutions" and invested in "permitted investments" as then defined and required by the Rating Agencies.

ARTICLE 19 – COSTS

Section 19.1 Performance at Borrower's Expense. Borrower acknowledges and confirms that Lender shall impose certain administrative processing and/or commitment fees in connection with (a) the extension, renewal, modification, amendment and termination of the Loan, (b) the release or substitution of collateral therefor, (c) obtaining certain consents, waivers and approvals with respect to the Property, or (d) the review of any Lease or proposed Lease or the preparation or review of any subordination, non-disturbance agreement (the occurrence of any of the above shall be called an "Event"). Borrower further acknowledges and confirms that it shall be responsible for the payment of all costs of reappraisal of the Property or any part thereof, whether required by law, regulation, Lender or any governmental or quasi-governmental authority. Borrower hereby acknowledges and agrees to pay, immediately, with or without demand, all such fees (as the same may be increased or decreased from time to time), and any additional fees of a similar type or nature which may be imposed by Lender from time to time, upon the occurrence of any Event or otherwise. Wherever it is provided for herein that Borrower pay any costs and expenses, such costs and expenses shall include, but not be limited to, all reasonable legal fees, costs and expenses of Lender.

Section 19.2 Legal fees for Enforcement. Borrower shall pay (a) all reasonable legal fees, costs and expenses incurred by Lender in connection with (i) the preparation of the Loan Documents; and (ii) the items set forth in Section 19.1 above, and (b) to Lender on demand any and all expenses, including legal fees incurred or paid by Lender in protecting its interest in the Property or in collecting any amount payable under the Loan Documents, or in enforcing its rights hereunder with respect to the Property, whether or not any legal proceeding is commenced hereunder or thereunder, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such expenses are paid by Borrower.

ARTICLE 20 - DEFINITIONS

Section 20.1 General Usage. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form, pronouns shall include the corresponding masculine, feminine or neuter; and the words "Applicable Laws" shall mean "all existing and future federal, state and local laws, orders, ordinances, governmental rules and regulations and court orders and is expressly deemed to include all Environmental Laws, as well as amendments or supplements thereto;" the word "Borrower" shall mean "each Borrower and its successors, assigns, heirs, executors, administrators and legal representatives;" the words "Lease" and "Renewal Lease" shall include any guaranty, letter of credit or other credit support with respect thereto; the word "Lender" shall mean "Lender and any subsequent holder of the Note;" the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument together with all extensions, renewals, modifications, substitutions and amendments thereof;" the word "Loan" shall mean "the Debt evidenced by the Note and secured by the Loan Documents;" the word "Person" or person shall include an individual, corporation, limited liability company, partnership, trust, unincorporated association, government, governmental authority, and any other entity; the word "Property" shall include any portion of the Property and any interest therein; the phrase "legal fees" shall include any and all counsel, attorney, paralegal and law clerk fees, costs, expenses and disbursements, including, but not limited to fees, costs, expenses and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder, whether with respect to retained firms, the reimbursement for the expenses of in-house staff or otherwise; and the words "Loan Documents" shall include any and all extensions, renewals, substitutions, replacements, amendments, modifications and/or restatements of any of the Loan Documents.

Section 20.2 Definitions Glossary.

Affiliated Manager (8.4)	Indemnified Parties (13.1)	Prepayment Consideration (Note)
Applicable Laws (20.1)		Prohibited Transfer (8.1(a))
Availability Threshold (3.7(b))	Insurance Premiums (3.5)	Property (1.1) (20.1)
Award (3.6)	Investor (18.3)	Rating Agency (3.3(b))
Borrower (Caption) (20.1)	Land (1.1(a))	Release (12.5)
Business Day (16.1)	Leases (1.1(f)) (20.1)	Remedial Work (12.5)
Causes of Action (11.1(n))	legal fees (20.1)	Renewal Lease (3.8(a)) (20.1)
Control (8.4)	Lender (Caption) (20.1)	rental income (3.3(a)(iv))
Creditors Rights Laws (10.1(f))	Loan (20.1)	Rental Loss Proceeds (3.7(c))
Debt (2.1)	Loan Documents (2.6)(20.1)	Rents (1.1(f))
Disputed Liens (3.12)	Losses (13.1)	Replacement Cost (3.3(a)(i))
Environmental Indemnity (12.5)	Major Lease (3.8(a))	Restoration (3.7(a))
Environmental Law (12.5)	Net Proceeds (3.7(b))	Restoration Consultant (3.7(d))
Environmental Liens (12.5)	Note (Caption) (20.1)	Restoration Deficiency (3.7(d))
Environmental Report (12.5)	Obligations (2.3)	Restricted Party (8.4)
ERISA (4.2)	Other Obligations(2.2)	Sale or Pledge (8.4)
Escrow Fund (3.5)	Other Charges (3.4(a))	Securities (18.1)
Event of Default (10.1)	Participations (18.1)	Security Instrument (Caption)
Flood Insurance Acts (3.3(a)(vi))	Permitted Exceptions (5.1)	
full insurable value (3.3(a)(i))	permitted investments (18.5)	
GAAP (3.11)	Permitted Transfers (8.2)	Taxes (3.4(a))
Guarantor (10.1(e))	Person (20.1)	UCC Collateral (1.3)
Hazardous Materials (12.5)	Personal Property (1.1(e))	Uniform Commercial Code (1.1(e))
Improvements (1.1(c))	Policy (3.3(b))	

ARTICLE 21 - MISCELLANEOUS PROVISIONS

Section 21.1 No Oral Change; Merger. This Security Instrument, 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



20070119000030230 33/37 \$2451.50
Shelby Cnty Judge of Probate, AL
01/19/2007 12:39:30PM FILED/CERT

the part of Borrower or Lender, 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. This Security Instrument and the other Loan Documents, together with any other certificates, instruments or agreements to be delivered in connection therewith, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements, written or oral, between Borrower and Lender with respect to the subject matter of this Security Instrument and the other Loan Documents. Notwithstanding anything in this Security Instrument and the other Loan Documents to the contrary, upon the execution and delivery of this Security Instrument by Borrower and Lender, any proposal or commitment letters or other documents with respect to the transactions contemplated by this Security Instrument shall be deemed null and void and of no further force and effect, and the terms and conditions of this Security Instrument and the Loan Documents shall control regardless of whether such terms and conditions may be inconsistent with or vary from those set forth in such proposal or commitment letters or other documents.

Section 21.2 Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 21.3 Inapplicable Provisions. If any term, covenant or condition of the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Note and this Security Instrument shall be construed without such provision.

Section 21.4 Duplicate Originals; Counterparts. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 21.5 Headings, etc. The headings and captions of various Articles and Sections of this Security Instrument 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.

Section 21.6 Number and Gender. 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.

ARTICLE 22 - SPECIAL ALABAMA PROVISIONS

Section 22.1 Inconsistencies. In the event of any inconsistencies between the terms and conditions of this Article 22 and the other provisions of this Security Instrument, the terms and conditions of this Article 22 shall control and be binding.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, Borrower has duly executed this Security Instrument as of the day and year first above written.

EVOLUTION MANAGEMENT SERVICES, LLC, an
Alabama limited liability company

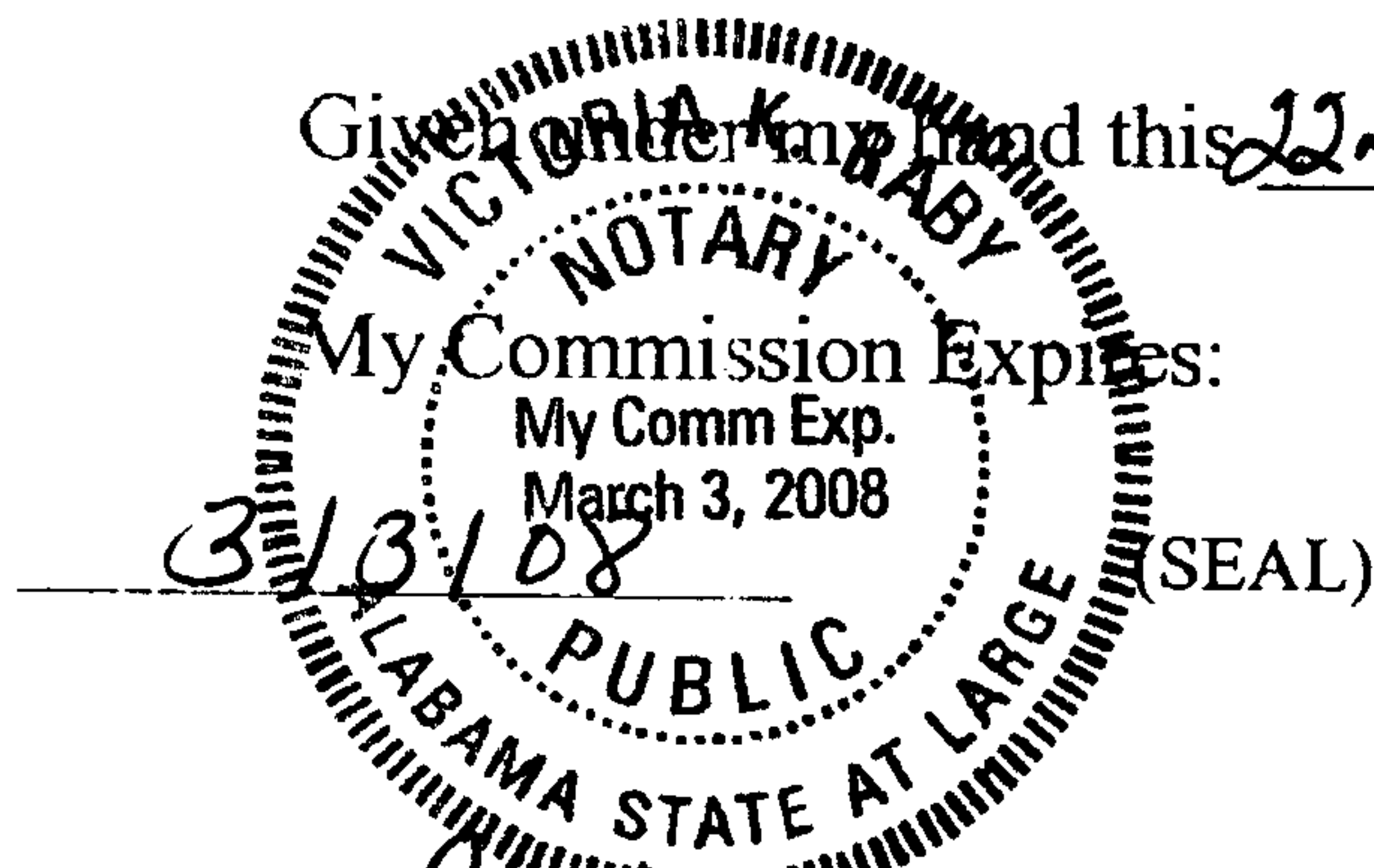
By: David L. Barton, Member
David L. Barton, Member

By: Maleah D. Barton, Member
Maleah D. Barton, Member

STATE OF Alabama)
Jefferson COUNTY)

I, Victoria K. Raby, a Notary Public in and for said County in said State, hereby certify that David L. Barton, a member of Evolution Management Services, LLC, an Alabama limited liability company, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on behalf of the limited liability company.

Given under my hand this 22nd day of December, 2006.

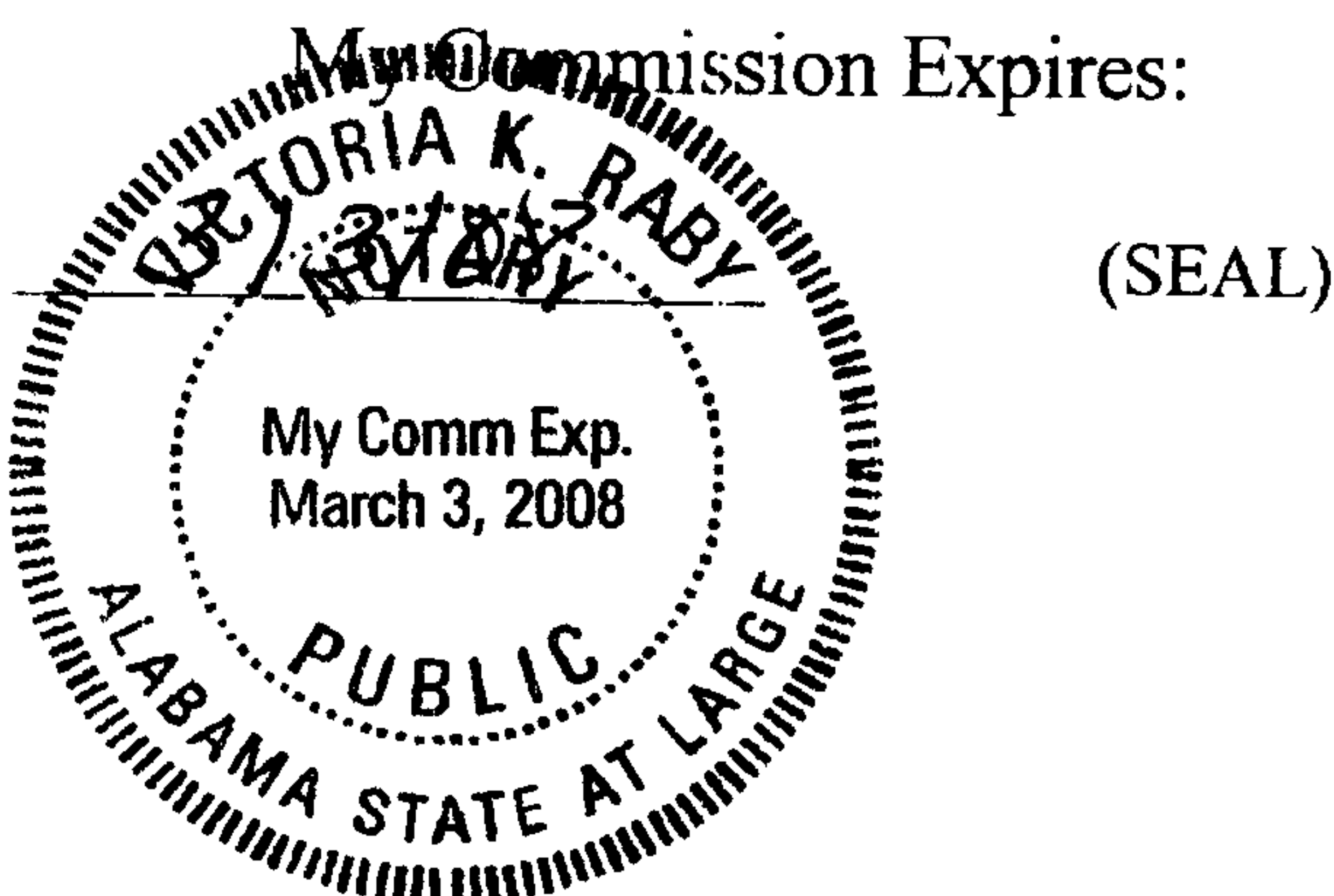


Victoria K. Raby
NOTARY PUBLIC

STATE OF Alabama)
Jefferson COUNTY)

I, Victoria K. Raby, a Notary Public in and for said County in said State, hereby certify that Maleah D. Barton, a member and of Evolution Management Services, LLC, an Alabama limited liability company, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on behalf of the limited liability company.

Given under my hand this 22nd day of December, 2006.



Victoria K. Raby
NOTARY PUBLIC




20070119000030230 35/37 \$2451.50
Shelby Cnty Judge of Probate,AL
01/19/2007 12:39:30PM FILED/CERT

EXHIBIT A

(DESCRIPTION OF LAND)

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


20070119000030230 36/37 \$2451.50
Shelby Cnty Judge of Probate, AL
01/19/2007 12:39:30PM FILED/CERT

**All that tract or parcel of land lying and being in Shelby County, Alabama, and
being more particularly described as follows:**

**Lot 4, according to the Survey of Eagle Point Office Park Resurvey, as recorded in
Map Book 26, Page 104, in the Probate Office of Shelby County, Alabama.**



20070119000030230 37/37 \$2451.50
Shelby Cnty Judge of Probate, AL
01/19/2007 12:39:30PM FILED/CERT

EXHIBIT B

REQUIRED REPAIRS

1. Repair of parking lot to address drainage problems.
2. Installation of safety railing atop retaining wall.
3. Repair or replacement of caulking around windows of the building.